

ZB# 94-13

Greg & Mona Agresti

60-1-4

Prelim.

May 9, 1994.

Interpretation
& Variance
Requested ~~####~~

Shout Form 4
EAF also here

~~AP's Note~~ ~~here~~

- ① Deed
- ② Title Report
- ③ Photos

④ Fees: ① 150.00 ~~paid~~

⑤ 292.00 ~~PA.~~

Notice to Sentinel on 6/28/94
Letters out - 6/29/94

Public Hearing:

July 11, 1994

Interpretation given

THAT it is 2 lots

Tabled 2nd Item until

After Planning Bd Review

Prelim. Meeting:

Jan. 9, 1995.

Motion to sched. P.H.

Public Hearing:

January 23, 1995

Area Variance

Granted ^{Using} Plan A

#94-13 - Cegresti, Gregory + Mona - Area

CD#223 - Quick, D. & A.

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

14130

19

June 29

Received of

Agresti Plumbing & Heating

\$ 150.00

One Hundred Fifty and 00/100

DOLLARS

For

Zoning Board #94-13

DISTRIBUTION:

FUND	CODE	AMOUNT
CD #691		150.00

By

Dorothy H. Hansen

Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Cigredi

FILE # 94-13

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE Interpretation \$ 150.00

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 292.00

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE	<u>5/9/94 - 13 pages</u>	\$ <u>58.50</u>
2ND PRELIM. MEETING - PER PAGE	<u>7/11/94 - 32 "</u>	\$ <u>144.00</u>
3RD PRELIM. MEETING - PER PAGE	<u>1/9/95 - 5 pages</u>	\$ <u>22.50</u>
PUBLIC HEARING - PER PAGE	<u>1/23/95 - 5 pages</u>	\$ <u>22.50</u>
PUBLIC HEARING (CONT'D) PER PAGE		\$
TOTAL		\$ <u>247.50</u>

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING-	_____	HRS. <u>35.00</u>	<u>5/9/94</u>	_____	\$
2ND PRELIM.	_____	HRS. <u>35.00</u>	<u>4/11/94</u>	_____	\$
3RD PRELIM.	_____	HRS. <u>35.00</u>	<u>1/9/95</u>	_____	\$
PUBLIC HEARING	_____	HRS. <u>35.00</u>	<u>1/23/95</u>	_____	\$
PUBLIC HEARING	_____	HRS. (CONT'D)		_____	\$
TOTAL HRS.		_____	@ \$	PER HR.	\$
TOTAL					\$ <u>140.00</u>

MISC. CHARGES:

_____ TOTAL \$ 387.50

LESS ESCROW DEPOSIT . . . \$ _____
 (ADDL. CHARGES DUE) . . . \$ _____
 REFUND TO APPLICANT DUE . . . \$ _____

(ZBA DISK#7-012192.FEE)

-----X
In the Matter of the Application of

GREGORY AGRESTI and MONA AGRESTI

DECISION GRANTING
AREA VARIANCES#94-13.

-----X

WHEREAS, GREGORY AGRESTI and MONA AGRESTI, 59 Lakeside Drive, New Windsor, New York 12553, have made application before the Zoning Board of Appeals for a 7,945 s.f. lot area, 30 ft. lot width, 9 ft. side yard for Lot #1, and 3 ft. lot width and 42 ft. street frontage for Lot #2 to construct a single-family residence on Lakeside Drive in an R-4; and

WHEREAS, a public hearing was held on the 23rd day of January, 1995, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant appeared before the Board for this proposal representing themselves; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke for or in opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) This is property consisting of two residential lots which are undersized according to the present Zoning Local Law but which pre-exist that law.

(b) The lots are located in a one-family neighborhood in an R-4 zone.

(c) One of the two lots is already improved with a one-family house (Lot #1). Variances are sought to allow that house to remain in its present location.

(d) Variances are also sought for Lot #2 to allow the construction of an additional one-family house.

(e) This site has been before the Planning Board and if the variances herein requested are granted, will be again submitted to the Planning Board for a lot line approval.

(f) The applicant has made a number of attempts to

locate the home on Lot #2 and has made extensive application to the Planning Board. This, the instant property location, is the one which requires the fewest number and least amount of variances and is the plan preferred by the Planning Board.

(g) The lot frontage sought on Lot #2 will need a variance of 42 ft. from a required 60 ft.

(h) Both lots have sewer service available to them.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The variances if granted will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties because the applicant proposes to locate a one-family residence consistent in appearance with the existing one-family residences in the neighborhood.

2. The variances requested will not produce a detriment to nearby properties because any requirement for septic service to the proposed new home can be satisfied by connection with the municipal sewer thereby eliminating damage to nearby Beaver Dam Lake.

3. The benefit sought by the applicant cannot be achieved in any other manner not requiring variances of the Town Code. Without any variances, the applicant cannot use this property (especially Lot #2) for any purpose. Further, this application will be reviewed and monitored by the Planning Board with respect to site location.

4. The requested variances are substantial but nevertheless should be granted because they are the minimum that would allow any use of Lot #2 and are required to permit the existing house located on Lot #1 to remain.

5. The requested variances will have no adverse impact on the physical or environmental conditions in the neighborhood or zoning district.

6. The difficulty the applicant faces in conforming to the bulk regulations is partially self-created in that the applicant seeks to build on Lot #2 but are nevertheless justified because some variances will be needed to allow the applicant to use this property for any purpose.

7. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

8. It is the further finding of this Board that the requested area variances are the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

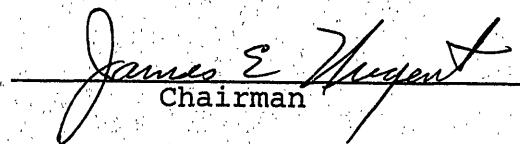
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 7,945 s.f. lot area, 30 ft. lot width, and 9 ft. side yard for Lot #1, and 3 ft. lot width and 42 ft. street frontage to allow applicant to construct a single-family residence on Lot #2 on Lakeside Road in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: April 10, 1995.


Chairman

(ZBA DISK#12-032895.MA)

January 9, 1995

5 = 22.50.

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AGRESTI, RAMONA

MR. NUGENT: Referred by Planning Board for area variances: Lot #1-7, 945 s.f. lot area, 30 ft. lot width and 9 ft. side yard; lot #2-3 ft. lot width and 42 ft. street frontage to construct single-family residence on unimproved lot on Lakeside Drive in R-4 zone.

Mr. and Mrs. Greg Agresti appeared before the board for this proposal.

MR. TORLEY: Are you planning to put the proposed house where it is shown on the sketch?

MRS. AGRESTI: Yes, this is what the Planning Board decided on.

MR. TORLEY: The trouble is the house being on two different pieces of property.

MR. BABCOCK: That is why they are doing a lot line change.

MR. BABCOCK: They had alternate A and B when they went to the Planning Board, alternate A involved an easement so that 2, lot 2, the driveway went over lot one so it involved an easement. The alternate B was a lot line change so that everybody owns their own property, all the driveways are on their own lots and the Planning Board felt that alternate B was better and that is the one that they should pursue.

MR. TORLEY: So, in essence, the lot line follows the driveway down towards this lot?

MR. BABCOCK: That is correct.

MR. NUGENT: There's sewer or water?

MRS. AGRESTI: There's sewer.

MR. KANE: Where is the 9 foot side yard variance?

MR. NUGENT: On the right side of the house on the

existing home.

MR. BABCOCK: It's supposed to be 15, they've got 6.

MRS. AGRESTI: It's missing 9.

MR. BABCOCK: That is an existing house, it's been there for--we're just trying, that is why they are here at the Zoning Board, pick it all up and get it all straightened out at one time.

MR. NUGENT: Let's go to lot 2, we need three foot lot width and 42 foot of street frontage, that is only cause they've got a driveway only, right?

MR. BABCOCK: That is correct.

MR. KANE: So lot 2, which is where the newer house is going doesn't really need a lot of variances.

MR. BABCOCK: No.

MR. KANE: And the older lot with the existing house you're just trying to get everything taken care of and so they own their own properties and it's clear cut without having an easement.

MR. KRIEGER: The only big variance with respect to lot 2 apparently is the street frontage which would be substantial.

MR. TORLEY: What's required?

MR. BABCOCK: It's required to be, 60 is required but I think that number is wrong because that was the alternate A plan. The 18 foot was when the driveway went straight in where the parking area used to be, Jimmy, where the parking lot the driveway went straight in and that aisleway, where the driveway was 18 foot wide, that is where that number came from. If you look at the map, well, the 33 feet is the driveway, if you look out on the road area, it's 50 foot.

MR. KRIEGER: Looks like ten foot.

MR. BABCOCK: See the 18 foot right in the parking area that is marked that is the old driveway measurement and and I think that is what Mark is seeing so actually really they need a ten foot variance.

MS. BARNHART: Ten foot street frontage.

MR. BABCOCK: So they are required to have 60, they are providing 50, so they need a variance of ten.

MR. KANE: Then the other one would need a front variance, would be the existing house.

MR. BABCOCK: See he has 74 for lot one and that changed.

MR. KANE: He will need 20.

MR. BABCOCK: Well, say 20 so he's providing 40 for lot one and he will need 20 for lot one.

MR. KANE: Instead of 30 feet 9.

MR. BABCOCK: Well, Mark is saying that he had 74 feet, he really only has 40.

MR. BABCOCK: So for lot 2 that they are creating where they want to build the house, they need three foot lot width and ten foot front, the rest of the variances are in lot one that is existing. Not much you really can do with that if you give lot one the requirements for street frontage you just take it away from lot 2 so if you give it to lot 2, you take it away from lot one, so what's the difference? The lot width is approximately 100 foot wide, you need 120, you can't get it, you need 20 for one and ten for the other.

MR. NUGENT: That still don't compute though, if you have 100 feet total width.

MR. BABCOCK: We have 90, 50 on one and 40 on another. The lot is approximately 100 foot wide straight across.

MR. LANGANKE: Have you been working on this since the last time we saw you?

MR. BABCOCK: Yes.

MS. BARNHART: They have been working on it for a long time.

MR. LANGANKE: I thought the presentation that they first made to the board was one of the best I've ever seen. I was just commenting to Mike they have really been doing their homework.

MR. TORLEY: Just for the record already no zoning requirements applicable to grades, et cetera.

MR. BABCOCK: Excuse me?

MR. TORLEY: Zoning requirements applicable to the grade and slope of the property.

MR. BABCOCK: Yeah, the driveway, there's a certain pitch for the driveway but they have proved that I'm not sure what that is.

MRS. AGRESTI: Yeah, it's on there.

MR. BABCOCK: There's a maximum slope of 15 percent, I think it is on the driveway and they are at 14 percent so they are going to have to regrade to get that 14 percent. The Planning Board felt that the driveway was steep but we've got other driveways that are that steep so that is why they've asked in Beaver Dam if you have ever been in this area, it's not unusual for these driveways to be like this. The next door neighbor's is exactly like that so the Planning Board asked for a parking area for two cars on the top in case of bad weather, they can still get off the road.

MR. KANE: I move that we set up Ramona Agresti for a public hearing for the proposed variance.

MR. KANE: I'll second it.

ROLL CALL

MR. TORLEY AYE

MR. KANE AYE
MR. LANGANKE AYE
MR. NUGENT AYE

MR. KRIEGER: When you apply for an area variance, there are certain criteria which the Zoning Board must consider by law. I'm going to give you a sheet of those criteria. If you'd address yourself to them and identify them as you do in the public presentation, it would be helpful to the Zoning Board. Also, do you have, I'm trying to remember in all the stuff I've seen normally we require deeds and title policy to look at but to tell you the truth--

MS. BARNHART: It's already in the file.

MR. KRIEGER: In the variance applications made both before this board and the Planning Board, I've already reviewed the deed and title policy. So we don't need that again. We do need the 5 criteria addressed.

January 23, 1995

⑤
22.50

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PUBLIC HEARING:

AGRESTI, ROMANA/GREGORY

MR. NUGENT: Request for area variances: Lot #1-7,945 s.f. lot area, 30 ft. lot width, 9 ft. side yard and 20 ft. street frontage; Lot #2-3 ft. lot width and 10 ft. street frontage to construct single-family residence on unimproved lot on Lakeside Drive in an R-4 zone. (60-1-4)

} This
was
revised
See p. 41

Mr. and Mrs. Gregory Agresti appeared before the board for this public hearing.

MRS. BARNHART: They published your notice twice, although I told them to publish it once, so if you get billed for two, I already called them, they are horrible.

MRS. AGRESTI: No, this is just one.

MR. NUGENT: Mike, I understand that we have an A and a B and we looked at the wrong one last week?

MR. BABCOCK: If the board understood last time there was alternate A and alternate B and the board had asked me which one was referred here from the Planning Board and I stated that it was alternate B and that was a mistake. As you may remember, we had to change some numbers on the denial because of that and then the next day, I talked to the applicant and we realized that we had talked about the wrong plan. So I changed the numbers back because it went to public hearing and we couldn't stop what had actually happened. It reduced the amount of variances by one and that is why alternate A is being used. It's the least amount of variances.

MR. NUGENT: What they were saying is the original numbers are the correct numbers?

MR. BABCOCK: That is correct.

MR. KRIEGER: And the numbers that appeared in the public notice?

MR. BABCOCK: There was no numbers there.

MR. KRIEGER: Numbers on the application are now the correct numbers, these numbers here are correct.

MR. BABCOCK: That is correct.

MR. TORLEY: Which map?

MR. BABCOCK: Alternate A.

MR. TORLEY: I'm a little confused on some of the numbers here, lot 2 is the one without the house on it now?

MRS. AGRESTI: Right.

MR. TORLEY: That is according to my figures requires ten foot street frontage?

MR. NUGENT: Yes.

MR. TORLEY: And how wide is that there?

MR. NUGENT: 50 foot you need 60.

MR. TORLEY: No, maybe I'm looking at the wrong property line.

MR. BABCOCK: The property width at the road for lot 2 is 18 feet. The Planning Board felt that the line should go straight and not follow the driveway.

MR. TORLEY: So they are required to have?

MR. BABCOCK: 60, so they need a variance of 32.

MR. TORLEY: So it is not ten foot but 32 feet for lot 2?

MR. BABCOCK: My paper says 32 so I am not sure what you're looking at, you might be looking at B.

MR. KANE: No, we're looking at lot number 2.

MRS. AGRESTI: 32 Feet.

MR. BABCOCK: Go straight and call this an easement, that is why it says alternate A easement. Now here's the numbers, there is where I changed it, required is 60, they have 18, they need 32. The other one has 73 so they don't need that so that eliminated that variance.

MR. NUGENT: They eliminated road frontage on lot one.

MR. BABCOCK: It's required 60, they have 18, they need 32, when it was alternate B, they also needed a road frontage variance.

MR. LANGANKE: 18 plus 32 that is 50.

MR. TORLEY: You say they need 60, then it's a 42 foot variance. If we granted them a 32 foot variance, they'd be in trouble.

MR. BABCOCK: Should be 42.

MRS. BARNHART: Street frontage, Mike, do you want to change this one again?

MR. BABCOCK: Thank you, Herb.

MR. LANGANKE: You're welcome.

MR. BABCOCK: As long as the numbers are right when we're done here, I think we'll be okay.

MR. TORLEY: So there's no lot frontage requirement on number one?

MR. BABCOCK: Number one has 73 feet.

MR. TORLEY: So what we're left with lot one is 7,945 square foot lot area and 30 foot lot width 9 foot side yard and that is it.

MRS. BARNHART: Lot number 2 is three foot lot width and 42 foot street frontage, is that right?

Here

MR. BABCOCK: That is correct.

MR. TORLEY: Now, the reason you are requesting these variances it would be impractical to make the lots fit the zoning code?

MRS. AGRESTI: Right.

MR. TORLEY: And you feel you have projected the plan at the minimum requested variances?

MRS. AGRESTI: Yes, this meets more than town codes.

MR. BABCOCK: Alternative B they needed one more variance so they are going with alternate A.

MR. KANE: This conforms with the neighborhood as it is right now?

MRS. AGRESTI: Oh, sure.

MR. KRIEGER: What is going to be constructed on this additional lot, if it is approved, is a one-family house similar in size and appearance to the one-family houses that exist in the neighborhood?

MRS. AGRESTI: Right.

MR. TORLEY: This has sewer?

MRS. AGRESTI: Yes, we gave an easement to the town back here.

MR. BABCOCK: Yeah, runs right across the back of the property right at the lake.

MRS. BARNHART: 23.

MR. TORLEY: But lot number 2, even with the easement area deducted meets the area of lot size requirements?

MR. BABCOCK: Yes.

MR. NUGENT: I'll accept a motion.

January 23, 1995

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MR. KANE: Mr. Chairman, I move that we grant Ramona and Greg Agresti their requested variances for lot one and lot two on Lakeside Drive.

MR. TORLEY: Second it.

ROLL CALL

JAMES NUGENT	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE

July 11, 1994

32 pages x 4.50
\$144.00

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AGRESTI, RAMONA

Robert DiNardo, Esq., and Mrs. and Mrs. Greg Agresti appeared before the board for this proposal.

MR. NUGENT: Request for Interpretation and 6,445 s.f. lot area and 42 ft. required street frontage concerning property located on Lakeside Drive in an R4 zone which is before the Planning Board for a lot line change.

MR. DINARDI: My name is Robert DiNardo, the attorney for the Agrestis. Mr. and Mrs. Agresti are here. We put together the information that we discussed informally at the preliminary meeting in a package so that hopefully you all can follow fairly easily.

MR. NUGENT: There's only three of us here tonight. Are you willing to take the chance?

MR. DINARDO: What I'd like to suggest is this it's been noticed for a hearing, you have to proceed, what I'd like to suggest--

MR. KRIEGER: You have to proceed at least as far as calling for the public.

MR. DINARDO: Let us present what we have to present. I realize that we need three out of three. If there appear to you to be any serious question on the part of any member, we always have the option rather than closing the hearing to adjourn the hearing to a time that there's more members, if that is satisfactory to the board.

MR. TORLEY: You might want to say that if that is your decision at the next meeting, we'll hopefully be a full board but you'd be starting over from scratch with the other two members.

MR. DINARDO: I understand and to that extent, I didn't realize you'd be short but it's fortunate that we have the materials in written form. The other possibility that exists at least for me if it doesn't violate your procedures at the conclusion of the presentation, I might ask to have the feelings of the board members

expressed in a poll without a formal vote, if there is insufficient votes to pass tonight, then we can perhaps complete it this evening. In any event, the exhibits are listed and I'm not going to bore you with any great detail, try and get through them quickly. A and B show the two lots coming into the Agresti family's predecessor, Persky, in two separate deeds in the same year, 1950. Persky, now you're referring to Exhibit C, it's almost easier to follow it on the Exhibit list, Persky then conveys to Josephine Agresti, which is the parent, the mother of Greg, in '57, two lots described separately in one deed. I don't want to jump you around but if you look at the very last piece of paper in the package, you'll see a 1958 tax bill, that '58 tax bill describes two parcels. Now, if you all remember the very last page again in 1958, we didn't have tax lots in the county so we don't have corresponding numbers. But this definitely depicts two separate bills, two separate tax lots, two separate amounts that that the bill was paid with one check, and both bills are shown, both tax lots are shown on the same bill. So that brings us to '56, the D and E deeds are inter-family deeds. The Agresti family as a result of the death of Mr. Agresti then Mr. Agresti and then is the transfer in 1988 to the applicants, Greg and Mona. And the only change B, C, D, E and F are all the same in terms of description, two separate lots, one deed. G, we present to give you an overall picture. Those are the tax lots so you get a sense of how these lots compare with what's in the area. And basically, they are consistent with the size and density and style of what's in the immediate area. H, I think is perhaps particularly telling, that is a map prepared by the town's engineers in connection with an acquisition on a sewer easement, it's H, and in that survey by Kartiganer, as I recall, it depicts two separate lots, two separate lots, okay. Again this all comes out of the Caruthers and Booz (phonetic) subdivisions which started in the late '40's and early '50's. The Zimmerman survey ran--

MR. LANGANKE: When was this Exhibit prepared?

MR. DINARDO: H, date is on this.

MR. BABCOCK: April, 1984.

MR. DINARDO: I thought it was '81. See the certification on the side right here on the right-hand side? That is dated '81, 3/10/81.

MR. BABCOCK: Your exhibit list says '84.

MR. DINARDO: Oh.

MR. BABCOCK: Must have been a typo.

MR. DINARDO: That continues the historical paper trail that exists in terms of two separate lots. The survey, these folks had the property surveyed for the first time in '87 and the Zimmerman survey which depicts the two lots is Exhibit I. J is Greg's sister's affidavit, she's older than Greg, her memory and her familiarity with history goes back earlier than Greg's, that is why we had her reduce her recollections to an affidavit form and again, I don't want to belabor the point but her affidavit charts the acquisition by Persky in two separate deeds, merger of those two deeds, two parcels into one deed, maintained separate legal descriptions. What I think is perhaps more important then I'm going to shut up and let you read it, you'll see that the way the property was used it was used as separate tax lots, as separate building lots, I should say, two separate buildings, occupied by two separate families, either record owner in one and rented to another or vice versa but they were always, utility point of view, they were always used as two separate building lots each, had their own driveway, they each had their own septic system. They each had their own house. True that the one house that still exists, not the one that burned down, obviously, has a slight encroachment on to the other. That was not known until 1987. And Greg's sister, in her affidavit, indicates she doesn't know why it got merged into one tax bill, wasn't at the family's request, it happened. My guess, by the way, and that is all it is is a guess, is that it may have occurred when the county went to a tax map system and the coincidence the two lots adjacent contiguous to each other in the same ownership but that is only a guess. The last time we have been able to clearly

document there were two lots were '58 and the county went to tax maps, I think some time in the mid to late '60's. I have some photographs, if you'd like to see them which show the remnants of the foundation of the earlier building that burned down there also and generally, some views of the rear of the property. There's a pretty distinct tree line that runs roughly parallel with the long axis of the property. I think the issue is largely a legal one. Did the property owners intend to merge to make the two lots join and I don't believe your code has a strict traditional merger provision. Just for the record, I'm sure that counsel is familiar with it but for the record, I'll note legal authority matter of Allen against Adami, 39 N.Y.S. 2d, 275, I think both the language in that case as well as the language of the Zoning Board in that case as compared to your zoning ordinance are remarkably similar. In that case the court held that absent a specific intention on the part of the property owners to connect, to merge the two lots, the two lots are indeed not merged. I think it's exactly our situation here.

MR. KRIEGER: What's the cite on that again?

MR. DINARDO: 39 New York 2d, 275, recently referred to in 611 N.Y.S. sub 2d, 336, 307 Dept.

MR. NUGENT: Andy, just to enlighten me what we're doing here tonight is strictly for an interpretation?

MR. KRIEGER: That is what I understood was requested. I see on the agenda that there are a couple variances requested also, I wasn't aware that that was--

MR. NUGENT: That is what I am--

MR. DINARDO: If I may, we submitted the application just for an interpretation, secretary may have suggested to Mona that she also include the variance request so as to make things simpler and make it a one stop shopping situation, not to have to come back again. That is how that happened. Honestly, I had intended just to deal with the interpretation first. I thought that we would then go to the Planning Board and

get their reaction to things and then come back here for the area and width variance. But since it's been noticed that way, I have no problem dealing with both of them although. I think we ought to take them in sequence.

MR. NUGENT: That is what we're going to do, I have to do it in two votes.

MR. KRIEGER: Yes. If that is what you're going to do, that is true. Was the application ever amended?

MR. DINARDO: Yes, yes, with the assistance of the secretary.

MR. NUGENT: That is what I am looking for now.

MR. BABCOCK: Yes, Pat called me and asked me to redo the denial. Alls I did, and I'm not sure she's the one that requested it from me, what we did is just printed a new one out on the computer, cause everything was on it, Jim, we had just crossed it out that night and then she asked me so I didn't know whether it was the board's request or not.

MR. NUGENT: 21,780 square feet required, 15,135 available, square footage of 6,445.

MR. DINARDO: Again, I don't know if you want to see this at this time, but you did see this once before, when we get to that stage.

MR. NUGENT: That would be helpful, maybe.

MR. DINARDO: There are more of those available.

MR. NUGENT: Mike, why she only has 18 feet available on the road of the second lot?

MR. BABCOCK: That is correct, once they, do you see the new lot line change, they want to change that.

MR. NUGENT: I see what they are doing.

MR. BABCOCK: The existing house encroaches on lot 2.

MR. NUGENT: So they are taking a new lot line change.

MR. DINARDO: Makes more sense to make it as a flag lot.

MR. NUGENT: What's happening is the back lot now becomes undersized?

MR. DINARDO: Correct.

MR. BABCOCK: That is correct, which it already is.

MR. DINARDO: The front lot becomes undersized.

MR. BABCOCK: Yes, for lot one.

MR. DINARDO: Right.

MR. BABCOCK: Then lot 2 is the road frontage.

MR. TORLEY: Sir, would you speak to our section of our code, non-conforming lots of record, particularly Section 48-26, particularly, B and E, B reflecting two or more non-conforming subdivision lots not in separate ownership shall have three years.

MR. DINARDO: Well, this doesn't apply because these lots were created prior to the creation of the Planning Board and the jurisdiction of the Planning Board in granting subdivisions, this pre-dates that. That is why I think B is inapplicable.

MR. NUGENT: Actually pre-dates zoning?

MR. DINARDO: Yes, E, E doesn't apply because this is not a situation where there's municipal water and sewer. There's sewer, I know it's community, I'm not sure if it's municipal.

MR. BABCOCK: Yes, it is.

MR. DINARDO: But there is no municipal water.

MR. TORLEY: Non-conforming residential lot described

is allowable if it has these and you're saying these lots do not meet those criteria?

MR. DINARDO: In A, they are not separated by other land not in the same ownership. They are indeed in the same ownership, that is why I think A doesn't work, 4826 A on page 4868.

MR. BABCOCK: They don't fit the criteria of a non-conforming lot because they don't have central water.

MR. TORLEY: Now, my question is and I asked our attorney for the appropriate paragraph, my recollection is that in the code, that if you have two or more non-conforming lots that are in separate ownership and adjacent, there's a timeframe under which those could be developed as non-conforming lots before it expired and had to meet the criteria.

MR. BABCOCK: You're in the right section, but it goes on to tell you in the same ownership approved by the Planning Board they must have or any future amendment.

MR. DINARDO: Which is just echoing State Law.

MR. BABCOCK: Correct.

MR. TORLEY: So they would have three years from any change in our zoning regulations.

MR. BABCOCK: That is correct, which these do and they have Planning Board approval and criteria for the lot have changed. Now, it's one acre and they have three years from the stamp of approval or the time that the zoning amendment changed, so if you have an amendment to change from whatever to one acre from three years from that date, you have to obtain a building permit. If you don't, you're here for a variance.

MR. TORLEY: When was the--did the code, last code change that affected this?

MR. BABCOCK: These lots weren't approved by the Planning Board.

MR. TORLEY: That is a separate issue. Next thing is the zoning code change, you still have three years after zoning code change to come in for building permit disregarding Planning Board for a moment, is that correct?

MR. DINARDO: No.

MR. BABCOCK: I think.

MR. TORLEY: Non-conforming lot.

MR. NUGENT: You're saying two different things.

MR. TORLEY: You have a non-conforming lot deeded over 80 years ago. We now change the zoning in this sector of the town to one acre so it's no longer conforming. They are saying their right to build on that lot, even though it doesn't conform to the zoning code, goes in perpetuity, no matter what we change it to.

MR. DINARDO: So long as we don't do something to consciously merge them and so long as we can comply with the sanitary code in terms of well, septic separations and that sort of thing, yes because there's no provision in your non-conforming sections that is right on the button in terms of this factual situation.

MR. TORLEY: I'd like our attorney to just discuss that.

MR. NUGENT: They have sewer, right?

MR. BABCOCK: Yes, there's an easement right by Beaver Dam right by the water's edge.

MR. TORLEY: My recollection again was if there are two lots that are held and I may be wrong in this, I'll be clear but you're saying we have a lot that is too small, we change the zoning code so that lot is now conforming because it existed before the change, you can build on that regardless of what we do and wait 30 years later and come in and--

MR. DINARDO: Yes but let me explain logic and the rationale behind that and how that is different from the context of getting lots approved today. After the advent of zoning, after the advent of the Planning Board, everyone's on notice that to subdivide property and to develop property, you need to comply with all the regulations. One of those regulations being if you get an approved subdivision approval, that subdivision approval is not necessarily good forever. It's got a three year life to it. Those are the rules of the game, written and acknowledged and spelled out to all of the players before the game starts. Forewarned is forearmed. Now, contrast to that situation, where a property owner has two lots before zoning, before Planning Board, before any of the current body of regulations that we now take for granted as second nature, before any of that existed, we're subject to not creating a nuisance to our neighbor or creating a sanitary problem, had the right to use our property as we wished. And these lots were created in that environment, in that non-regulated environment and that is why it would be just from a standpoint of common sense and elementary fairness. It would be unfair to apply current regulatory rules that we take for granted in the 90's to a situation which was created in the '40's where those rules didn't exist or even contemplate. That is why what strikes you as odd, I don't think is odd because again forewarned is forearmed. There were no such rules. There were no such regulations and why should a person who had two lots in the '40's or the '50's before the advent of zoning be denied those two lots simply because in the '60's and '70's, zoning became commonplace and the rules changed. That is as best as I can explain it.

MR. KRIEGER: I think the answer can be found in subsection D, that is what you're thinking of, the operative words there are subsequently attached and that is where the loophole, if you will, or the arguing point exists. D is the one that you were referring to, contiguous lots will be taken together in essence. The question is, as you see it which becomes subsequently attached now that is precisely the question from this board, did they become subsequently attached.

MR. DINARDO: That is why we gave you all that history.

MR. KRIEGER: If they did become subsequently attached, then D would apply and they'd need one lot to comply with the present regulations. If they didn't become subsequently attached, then it doesn't apply and it remains as two lots.

MR. KRIEGER: I would like both of you gentlemen to say what is subsequently attached.

MR. DINARDO: After the effective date of the ordinance, one parcel attaches to the parcel and the two are no longer separate and distinct parcels. That would be my definition.

MR. KRIEGER: Subsequently means after the enactment of the zoning regulations. Attached is a question of fact to be found by the board and it's merely because contiguous properties are in the same ownership, they are not automatically attached to one another. The question is, did the owner intend to use these properties separately or together, that is the attachment question. It's not a question of what they call it. The question of what you find that they actually did. Whether they behaved like they were to be used as one or not.

MR. NUGENT: That's what he did here.

MR. KRIEGER: That is the question. There are indicia of looking at it initially, there are indicia of either of both answers to this question and there are only two possible answers.

MR. DINARDO: We don't know how it became--

MR. KRIEGER: The applicant's argument is that the indicia of non-attachment or separate usage are stronger than the indicia of the same usage as one parcel and that is the interpretation they are urging on the board.

MR. LANGANKE: If they had decided to sell one of those lots, when would they have run into a problem or could

they have sold one of those lots if they wanted to?

MR. DINARDO: I think the person who sold it to would be faced with the same situation we have.

MR. KRIEGER: When they would have run into a problem requires a certain amount of crystal ball gazing. I would speculate that on the, in the present climate where they'd run into the problem is at or before the closing as soon as the bank's attorney looked at it, given the way bank's attorneys are now looking at these things.

MR. DINARDO: What if the vacant lot was sold, wouldn't it become a problem when and if the new owner of the vacant lot presented a building permit application to the building department?

MR. KRIEGER: Yes, so it would.

MR. LANGANKE: He could have sold the property separately?

MR. KRIEGER: Well, no.

MR. NUGENT: That is what you are to determine tonight.

MR. KRIEGER: He could have attempted to sell the property.

MR. NUGENT: He could have sold it in 1957.

MR. KRIEGER: He could have appeared to sell the property, whether that would have been an affective sale or not, depends on a lot of things.

MR. DINARDO: The clerk will record anything that is in recordable form, they don't call you and say--

MR. KRIEGER: Recording is a ministerial act.

MR. BABCOCK: If you had a new deed made up for your property and put a line in the middle, took it to Goshen, they would record it and it would show that you had a subdivision on your property. That is what it

would do.

MR. KRIEGER: The question I have may only be resolved after litigation. As a matter of fact, I know of one such litigation is going on now where there was an illegal subdivision and the sellers sold off part of the parcel which they claimed was a separate parcel.

MR. BABCOCK: These gentlemen will be looking at that.

MR. KRIEGER: And that only took light when my understanding is it only came to light when the owners of the second parcel, what they thought was the second parcel, went to refinance and that is a question to my understanding being resolved through litigation and possibly will be resolved through applications to this board and the Planning Board, whatever, I wouldn't go farther with that because it's not directly relevant here.

MR. DINARDO: I was going to ask this, if the building inspector were presented with a building permit and application for the vacant lot--

MR. TORLEY: As presently outlined?

MR. DINARDO: Yes, the lot on the left, what would the reaction be by a new owner, by John Smith?

MR. BABCOCK: I think they'd need a road frontage variance, that would be it. I already talked to them about that.

MR. DINARDO: What if they said it's pre-existing, was created in 1950?

MR. BABCOCK: Road frontage would be the only thing that I think they would need. That is my opinion, it's tough.

MR. DINARDO: I don't mean the proposed lot 2, I mean the original.

MR. LANGANKE: That was my question.

MR. DINARDO: The original lot on the left, if that lot came in with a, for building permit application in the name of John Smith, just showing that parcel, without any, owning any contiguous property, pre-existing, having been created in '50 or before that, would they get a building permit?

MR. BABCOCK: No, they'd need road frontage variance but that is it.

MR. DINARDO: Would your response to the variance be that it is pre-existing?

MR. KRIEGER: Even if you got passed that, even if they got a building permit, that doesn't necessarily bind the town.

MR. DINARDO: No, no, I understand that. But I'm trying to determine how the town would have looked at it.

MR. NUGENT: They'd have to give them a variance for too close to a lot line.

MR. LANGANKE: But the point is they would have had two pieces of property they would have sold, isn't that what we're supposed to be determining whether it's one piece or two pieces?

MR. KRIEGER: Understand that merely because they have two separate descriptions, suppose that they did, a new owner came in and got a building permit and the building inspector later said for whatever reason and possibly one of the ones we stated that that permit was issued in error. The new owners, hypothetically the Joneses could not then rely on the building permit?

MR. DINARDO: I wasn't suggesting they could.

MR. KRIEGER: So in other words, merely because they got a building permit does not resolve the question.

MR. LANGANKE: You're taking it further. All I'm asking is could he have sold one of those lots. And it seems to me he could have sold one of them and then the new

owner may have had problems. But if you are asking me if it's one or two lots, I think it's two lots.

MR. KRIEGER: The new owner may have had problems, which is the reason we're bringing up this other case which would ultimately be resolved in court and court my turn around and say--

MR. NUGENT: They proved that with the exhibits that they gave us.

MR. LANGANKE: If you are asking me is there one or two lots?

MR. NUGENT: That is the first question.

MR. LANGANKE: Let's deal with that and then the other questions but if you are asking us the first question, is it one or two lots, it looks to me like it's two lots.

MR. DINARDO: I don't even understand what argument there is, frankly, in the direction that there's one lot, other than it's one tax lot but we had nothing to do with that.

MR. KRIEGER: Basically, there are three, there's one tax lot.

MR. DINARDO: We had nothing to do with it.

MR. KRIEGER: I didn't say they were not answerable, you asked the question what are they, that is one of them. The second one is that there's one house existing which is located on two lots. You already addressed that. I understand you have an answer for these. I'm just outlining them. The third thing is they were described in one description.

MR. LANGANKE: As two separate lots though.

MR. KRIEGER: Wait, wait, wait. It started out as two separate lots, the last deed which was in '88 or '87, contained the two separate descriptions and then it contained thirdly a joint description of the whole

thing being the same premises as and it was a whole, there was a joint description. Now, those are the--

MR. DINARDO: May I just answer the last point. The reason for that is in '87 was the first time the property was surveyed. When it was surveyed, the surveyor said here's your survey and here's the perimeter description of the entire parcel. And the lawyer being presented with the map and with his description is not going to throw the description away. That is something to use so belt and suspenders. Lot 1, lot 2 and here's how you describe the whole piece, the two together.

MR. KRIEGER: It wasn't specified in the deed that that was the purpose of the description, that doesn't make, that doesn't close the question about the owner's intent, merely because of that description in the deed. But that is a question you have to find was that an oversight or inaccurate drafting of the instrument or did that indicate an actual intent on the part of the owners. I'm not indicating that there's a question you should, there's an answer that you should find either way. Certainly the applicant has an advocacy position, has an answer they want you to find. I'm just indicating to you that is the question and that is the question the board has.

MR. LANGANKE: You're asking us what the owner's intent was. The owner is not here but we do have people who knew the owner who are telling us what the owner's intent was so we do have something that can give us guidance on the owner's intent.

MR. DINARDO: People who owned it are here, the Agrestis were the owners on that last.

MR. KRIEGER: They acquired by the deed, had a perimeter description but you judge intent based on actions so that may, while it would be advantageous to have actual appearance and testimony from persons who are not here, if they are not here, you have to judge their intent based on whatever the meaning of their action is.

MR. LANGANKE: But as layman, we do have people who knew the owner and they would be more in a position to know the owner's intent, I mean I'm just saying I can look at it that way, right?

MR. KRIEGER: Yes, you may, that is certainly an indication that is evidence, it's available to you. I'm trying here not to indicate in any way, shape or form what you should do with that evidence or shouldn't do. That is your decision. But yes, you may use that, you can put that in the hopper, so to speak.

MR. DINARDO: The affidavit indicates two homes, two driveways, two separate particulars, two back yards, separate occupancy by two separate families, you know, walks like a duck and quacks like a duck, probably is a duck.

MR. KRIEGER: You have an animal that arguably walks like a duck and quacks like a duck, and according to the applicant which may or may not look like a duck, depending on how you look at it, you have to decide whether it's a duck or goose.

MR. DINARDO: When the deed was drawn, it may have been a little goosie.

MR. TORLEY: Again, please, I'm trying to, as I look at Section D, my interpretation of that was so that a person had as many of these Beaver Dam Lake lots are extremely narrow, a person bought two or three of them at once. Now, he is given piece of property by your declaration, he should be able to sell off, slice them off, even though they are now totally unacceptable.

MR. DINARDO: But not use them, I said two things, okay, it had to predate zoning and it had to comply with the sanitary code presented with a 15 foot wide lot by 100 feet could it be conveyed separately, yes, could it be used for anything, no, you can't comply with sanitary.

MR. TORLEY: So what you're saying then you're saying that these lots may be separate. Your assertion is that they are separate.

MR. DINARDO: Correct.

MR. TORLEY: But what you're not saying is if that is true, it does not guarantee that we can arrange a buildable lot.

MR. DINARDO: That is correct. If we can't comply with the sanitary code, can't get the separations.

MR. TORLEY: Sanitary code or other zoning requirements.

MR. DINARDO: Yes, but to my knowledge, there are no other zoning requirements.

MR. TORLEY: Well, okay.

MR. LANGANKE: Two questions here, correct the first one. Are they two lots?

MR. KRIEGER: You brought up a very good point that I was trying to indicate about subsequently attached. When these two lots here, you see an existing house, most of which is on the one lot, only a little bit is on the second lot, giving rise to the argument that you have heard, that it was not really intended to be used, that the owner of that house would use both lots, if that house had been built so that the lot line bisected the house and it was scarcely on the lot line. So you can't, you couldn't argue that it was an oversight or it was a subsequent addition or anything that would indicate an obvious intent on the part of the owner to attach the two lots for precisely the reason that you are talking about because they are so small. They are not usable to attach the two lots that would act as a staple and it would probably be conclusive or nearly conclusive proof of the owner's intent that they become attached. Here, the facts are different because of the location of the house. So you have to decide when looking at that indicator is this more like the staple example that I gave or is this more like somebody who put siding on the house and wound up with a two foot overhang.

MR. DINARDO: That was the porch.

MR. KRIEGER: Here, it's not siding and it's not squarely on the line. So that is a factual call that you have to make as board members as to what if anything this indicates.

MR. NUGENT: Well, the first thing that I think of when I look at this is that both lots are substantially large lots for that area out there. I mean, they are certainly not, one is within the code, the other one is just slightly smaller.

MR. KRIEGER: Baring in mind the two lots you're dealing with are the long ones, not the so-called flag lot and the front lot that is the subject for the proposal.

MR. DINARDO: This puts it in context it's a double lot.

MR. NUGENT: One is 40 foot wide, almost 41 foot wide and the other one is 30. If you just put them in that context.

MRS. AGRESTI: 452 feet deep.

MR. SHAW: By lakeside lots, those are still large, even though they are long and narrow.

MR. BABCOCK: Look on the upper right-hand corner of the paper, you'll see every lot is exactly basically the same way.

MR. DINARDO: That was the Caruthers and Booz subdivision.

MR. BABCOCK: They are all narrow and long, they run from the road to the lake.

MR. DINARDO: Interesting in the '40's you didn't have sewer there, did you?

MR. BABCOCK: No.

MR. NUGENT: The lake was there, that is where it went.

MR. KRIEGER: The answer to your question is yes, the lake.

MR. TORLEY: Should we consider these as two lots as they are now drawn?

MR. LANGANKE: Right.

MR. KRIEGER: One lot or two lots?

MR. TORLEY: Subsequent question becomes can existing parcel two, can you redraw the lot line so that they are both buildable?

MR. LANGANKE: Are we supposed to consider that as part of the answer to the first question?

MR. BABCOCK: No, if they were--

MR. KRIEGER: You have to make the interpretation first.

MR. LANGANKE: You want us to consider that as part of the reason for our first answer.

MR. TORLEY: No.

MR. KRIEGER: They have to be separate considerations.

MR. NUGENT: You have to make an interpretation.

MR. KRIEGER: Aside from all variance requests, decide that on its own and having decided that, now you can address yourself to the variance request. Because if you decide that it is one lot, the variance requests are moot.

MR. DINARDO: That was the reason I just made the application for the interpretation so we wouldn't get into this confusion but as long as we can keep them separate.

MR. BABCOCK: Just for convenience of the people that is the reason we wanted to consolidate them to save, they'd have to come back, re-apply, pay for fees.

MR. NUGENT: Has this been before the Planning Board yet?

MR. BABCOCK: Yes, it has.

MR. LANGANKE: Can they have just that first question answered tonight and come back at a later date for an answer to the second question?

MR. NUGENT: No, because they have to go through the whole thing over again.

MR. KRIEGER: No, they are here, you can decide the first one and you can vote to table any decision on the second one.

MR. LANGANKE: Wait for the rest of the board or whatever.

MR. NUGENT: For what reason?

MR. KRIEGER: Then it's taken off the--well, because it's necessary to further consider it, I don't think you have to give a reason for tabling motions.

MR. LANGANKE: I'm just saying this for the applicant, he asked, he's trying to get a feel for it.

MR. KRIEGER: I understand that but if you table the second request to be taken off the table where the, where a motion's made at a subsequent meeting and there's no opposition by the applicant to that procedure, you may do that. If they would oppose it, that might be a different matter.

MR. DINARDO: Once we take care of number one, if the board is not ready to proceed with number 2, we can wait but prefer to get them both done, if we could.

MR. KRIEGER: It may be advantageous for them to wait. If it's their plan to go to the Planning Board, the

variance requests that they make as a result of what happens there may be different than the variance request, not a great deal different, but just different enough they may want to make some adjustment in that.

MR. DINARDO: That is true.

MR. BABCOCK: That is true. I also think that if they did get the variances that it would support their application at the Planning Board.

MR. TORLEY: My question is, let's assume that we make the interpretation that they are two separate lots, how can we, we can't act on granting variances until the Planning Board approves the lot line change, can we?

MR. BABCOCK: No, you have to approve the variances before they can do the lot line. Normally we'd go to the Planning Board and be referred from the Planning Board over.

MR. KRIEGER: Technically, they are two completely separate and independent question. If the Planning Board were to grant, the applicant could, if they wanted to, go to the Planning Board and say we don't have any variances, we want you to disregard the zoning aspects and decide only on all other aspects and then afterwards, they can go back to the Zoning Board and do it. That would be as a legal matter. They can do that as a practical matter. If someone were to adopt that procedure, I think they would find very likely many, many more objections at the Planning Board stage than they might otherwise find if they sort of said we're taking any zoning consideration away from you and we insist that you go ahead.

MR. DINARDO: An area variance.

MR. KRIEGER: I think it would be unwise but legally they can do it.

MR. DINARDO: Area variance situations, do you typically solicit an opinion from the Planning Board?

MR. TORLEY: Frequently, it comes from the Planning

Board here.

MR. BABCOCK: It was at Planning Board.

MR. KRIEGER: It's not a question of soliciting the opinion from a Zoning Board, soliciting the opinion it's usually when it comes, the Planning Board choses to or not to make a recommendation at the time they send it over.

MR. TORLEY: I'm reading that my impression is that there's not an overly favorable feeling from the board.

MR. KRIEGER: That would be having been there myself that would be an accurate impression.

MR. DINARDO: May I reinforce the wisdom to proceeding separately and maybe holding off on number 2 and we go back to the Planning Board and discuss it with them further and come back to you. It's your call.

MR. KRIEGER: The only thing you have to be aware of in the tabling procedure that I outlined if your variance request changes, then it can't be taken up from the table here and amended yet again. It would require the procedure that you originally invisioned, i.e. another application.

MR. DINARDO: Understood.

MR. KRIEGER: Just thinking that the applicant may not view it as wise to go to the Planning Board with a kind of now you have to do this approach because that kind of approach is often--

MR. DINARDO: We'd like in sequence both issues addressed, if you are ready.

MR. TORLEY: Sir, if you'd be, it would really be your preference to have an interpretation as you initially described when they started this, just are they one or two lots, and then we'll deal with everything else another time.

MR. DINARDO: Only because I didn't want number 2 to

confuse anyone. If you can deal with number one on its own merits, without being confused by number 2, then I have no problem.

MR. LANGANKE: I think that I am confused by number 2.

MR. DINARDO: Do you want me to throw number 2 away for the moment?

MR. LANGANKE: I'm just telling you.

MR. KRIEGER: Off the record.

(Discussion was held off the record)

MR. TORLEY: So again, I would prefer if you wish to make a vote on number one, just the interpretation and everything else we'll start over from scratch.

MR. LANGANKE: I agree.

MR. TORLEY: What would be the proper form for such a motion to be in?

MR. LANGANKE: Is that what you would like to do?

MR. DINARDO: Because I need three out of three this evening, I would like the board members polled informally before a formal vote.

MR. TORLEY: Reflecting only.

MR. DINARDO: Only on one, the interpretation, correct?

MR. TORLEY: I'm swayed most strongly by I think it's Exhibit I or J, the Wehran Engineering report dated 1981, showing two lots that clearly.

MR. KRIEGER: Bearing in mind, if I may, if you look at the legend, this line in between is not denoted as a property line. As a matter of fact, it's not denoted as anything. So it is anybody's guess.

MR. DINARDO: By the way, the tax map lot is dashed

also.

MR. TORLEY: It's refers to one and two all the way.

MR. LANGANKE: I think the applicant has made a case that satisfies me as to there actually being two lots.

MR. NUGENT: I agree.

MR. TORLEY: Under these circumstances.

MR. NUGENT: The exhibits that he gave us this evening for the most part are fairly conclusive evidence that it has been two lots, it's always been two lots. There were two houses on it at one time. Now there's only one but there were two.

MR. KRIEGER: And you feel that the evidence of it being two lots is stronger than the evidence of it being one lot? That is exactly the question.

MR. NUGENT: Yes.

MR. LANGANKE: Do we open this to a public hearing?

MR. NUGENT: Are you here for this? Would you like to speak? We have to open it up to the public, if you'd like to speak on it, you're more than welcome.

MR. KRIEGER: The problem is that these folks on this whole thing now as you can see there's a line in the middle see all along Beaver Dam the lots are little strips like this all along. Now, you have got the question in front of the Zoning Board is is this to be treated as one lot or two separate lots? Now, the reason that it is in front, the reason the Zoning Board has to decide is the courts have said that the question of one lot or two lots is a question of what actually what the people actually intended. All this discussion about attached and so forth is coming down to that. It's a question of what they actually intended they use it like one lot or use it like two lots. There are indicators or indicia of both. As you can see, there's a house here, it encroaches a little on this lot. Now, you may remember I discussed with the board I said

well, if this were right in the middle, that would indicate one thing about the intent of this person might indicate one thing.

MR. MARK WAEDERMAN: I think it indicated that they bought two lots back in the '40's and they put the house on both lots.

MR. KRIEGER: The question is not just the intent of this owner but the whole history, okay. There are other confusing factors. If these were two separate deeds, two completely separate deeds, then it would be clear that and they were passed along chain of title as two separate deeds. Then it would be clear that the owners of these lots intended that they be treated as two lots. If there was one deed with one description, one giant description encompassing the whole thing, then it would be clear they intended for one. But whatever the case may be, that is not the case here. The deed that gave the present owners this parcel describes them first as separate parcels and then describes them as one parcel. So the question is which is the indicator, which is the more valid indicator, the two or one description. Now, what the applicant's attorney just has shown the approximate location there were at one point, apparently, so the Zoning Board is being told two houses on this piece of property. This being one and this being another. This one has burned down, leaving only this one and now we're back to the problem that I indicated, does that show that this, the person who put this house up intended to use the whole property or that they just made a mistake when they put it up and they intended to keep it on this property but they were inartful.

MR. WAEDERMAN: Shaded it this way as much as possible and they added on.

MR. LANGANKE: The applicants are telling us that.

MR. AGRESTI: We did not build the house, we bought the house on the two and the two lots so we bought it as two lots. We didn't buy it as one lot.

MR. WAEDERMAN: You have to go through the process in

the beginning to interpret the lot line then if you want to do something later on, it's another story.

MR. KRIEGER: Precisely. First they have to decide the question of one or two and this is why I've indicated to you it's in front of the Zoning Board because you have got indications of going both ways and it's up to the Zoning Board to decide.

MR. WAEDERMAN: It's one tax map or tax parcel.

MR. KRIEGER: Yes, it's described as a single tax map but first of all, tax map descriptions are not legally binding. That is number one. Number 2, there's nothing in the record that indicates how it came to be that way, whose act was it, was it the owner's act and the request that they be incorporated? The Zoning Board has been told no, or was it the tax map department, which is possible. We have no indication that it happened or not but it's possible that the tax map department may have taken it on its own to do this.

MR. WAEDERMAN: It's been done before that, that area I know owners have gone before, filed, divided up a hunk of land, never go before the Planning Board, filed deeds, filed parcels of property and sold them to people unknowingly without any Zoning Board approval, et cetera in that area.

MR. KRIEGER: Mr. Langanke, the answer to your question if somebody attempted to sell without this question being resolved, sell one of these lots then very likely precisely the same question that was here would wind up in front of some Supreme Court judge.

MR. LANGANKE: I feel like I'm earning my money.

MS. THERESA GAWRICKI: I live at 58 Lakeside Drive and I knew Greg's father when I moved into the property. Matter of fact, when we moved in, he showed us the whole house and property he said this is another lot over here. We used to have a house back here, I always wanted to rebuild but I never had the money. He never intended it to be one property but the man died so he never did get a chance and his kids inherited it but he

always it intended it to be two distinct properties. That's the way he always told it to my husband and I but he wanted to rebuild that house that burnt down. His wife got sick, then he just never had the money and he never did it but he always intended to rebuild that house.

MR. KRIEGER: There's some direct evidence.

MR. TORLEY: I would assume that you feel there's sufficient evidence on the record on both sides where a decision can be made?

MR. KRIEGER: To support any decision that you make, yes.

MR. TORLEY: Now in doing that, what would be the proper form because I think this is the first time we've ever had an interpretation.

MR. NUGENT: Anybody else from the public like to speak? If not, I'm going to close the public hearing and turn it back over to the board.

MR. KRIEGER: A person desiring to make a motion would say I move that the Zoning Ordinance be interpreted in such away as to determine that there are two separate lots here in this application owned by this applicant or you can phrase it as a single lot.

MR. TORLEY: I would I move that we interpret the zoning regulations that Gregory and Ramona Agresti, Lakeside Drive in fact own two separate lots described as I and II in their existing, in the map presented to the board attached to this decision as Exhibit A.

MR. LANGANKE: I second it.

ROLL CALL

MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. DINARDO: May I ask procedurally rather than

closing the hearing with respect to the second item which I know you don't wish to address tonight and that is fine with us, can I ask that you, rather than do anything else, can you adjourn or continue the hearing to another date and a date that will give us a chance to get to the Planning Board and come back to you or perhaps you don't want us to get to the Planning Board before we come back to you but rather than have to renotice if the hearing is continued.

MR. KRIEGER: Just in case you want to use the same numbers.

MRS. AGRESTI: Do I have to pay all the fees again? It was \$450.

MR. TORLEY: But I would feel that we have answered one question now then the subdivision, any zoning requirements and that are totally different issue really ought to be addressed separately.

MR. DINARDO: If you continue the hearing, you tell me if I would, what additional facts you want to hear or what it is that you would like to us present to aid you in the second decision, whether or not you want us to go to the Planning Board again before we come back to you or not. Once you give us that guidance, we'll be back to you. I'm just trying to avoid having to make a new application and pay another fee, if you can't rather than close the hearing.

MR. NUGENT: I'd like to postpone the hearing on the second part of this.

MR. TORLEY: How was the notice actually sent out?

MR. DINARDO: Both pieces.

MRS. AGRESTI: It was put in the Sentinel and sent out with an affidavit.

MR. KRIEGER: What did the notice look like?

MR. DINARDO: Mark, do you have yours?

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M.R. WAEDERMAN: It wasn't certified mail.

MR. KRIEGER: Doesn't have to be.

MR. WAEDERMAN: That is good, you save some bucks for people for God's sake.

MR. TORLEY: Two separate items, interpretation concerning pre-existing, non-conforming and two variances for lot size and lot requirements so they are both noticed.

MR. DINARDO: So you can legally continue it.

MR. NUGENT: I'd like to postpone the second half until the applicant goes before the Planning Board to see what line directs the other thing that bothers me.

MR. KRIEGER: If you are going to continue it, you have to, you'd have to specify a date alternatively. What you may do is vote to table it which means that in order for it to be picked up from the table so to speak, it would require a vote and that could occur at any time a member chooses to do that, presumably it would be done on some notice.

MR. DINARDO: Can I ask when do you think we can get on the Planning Board agenda? When is their next meeting and what are the notice requirements.

MR. BABCOCK: The next meeting is Wednesday night and that is already scheduled and there's no more room. Next meeting is August 10.

MR. DINARDO: And your ZBA meeting is before that?

MR. BABCOCK: I wouldn't play it that close.

MR. DINARDO: We almost have to go to September.

MR. BABCOCK: If you table it, do you have to have a date?

MR. KRIEGER: No, that is the advantage.

MR. DINARDO: Maybe I can get on the Planning Board agenda Wednesday.

MR. BABCOCK: No, it's made up, sent out.

MR. TORLEY: We need a motion to table the remaining considerations for lot area frontage, et cetera. I move we table the discussion on lot area, required street frontage, et cetera for these properties.

MR. LANGANKE: I second it.

MR. KRIEGER: If there had been people here who wanted to speak or wanted to be present, then you would have to tell them when the date would be that you continue, you don't want to come back, do you?

MR. DINARDO: If you tell me you want me to send a letter to anyone, when it comes back on, I'll do that.

MR. TORLEY: I assume what we can do, we can have a motion to take it off the table and we'll do so at the next meeting.

MR. KRIEGER: As long as there's nobody who wants to be here.

MR. TORLEY: Right now, I'm saying we can have the next meeting, let's take this off the table for our meeting of September 15.

MR. KRIEGER: Well, the motion--

MR. TORLEY: That gives yourself flexibility.

MR. KRIEGER: You can move to have it put on the table. You can't move now to take it off.

MR. TORLEY: We take this off the table and want to consider it, I don't want applicants to have to go through the trouble of mailing them out again. But I want some opportunity for word-of-mouth notice or phone calls to everybody in the neighborhood.

MR. KRIEGER: Correct me if I am wrong, what I think you're asking is could the motion be made to take it off the table at one meeting specifying that it be considered at a subsequent meeting so that it would give the applicant time to be here and such notice is deemed appropriate to others, would it have to be considered the same day that it is taken off the table?

MR. TORLEY: Correct.

MR. KRIEGER: No, I think it can be taken off the table and put on a future agenda.

MR. TORLEY: Thank you, just to make sure that everybody knows what's going on. I don't want to flim-flam anybody.

MR. DINARDO: Someone was referring to something in the Planning Board minutes and some concern you felt?

MR. NUGENT: My only concern was on the lot line change that I don't know how it's going to fly but just as a consideration, the lot line change, if you made it a little further this way, make the variance less, this lot has 23,000, you only need 21, give up some of this back to this lot, your variance would be less. That was my only concern looking at the map.

MR. DINARDO: I think the answer is make sure the engineer is with us when we get in front of the Planning Board and go over these technical items.

MR. NUGENT: My other consideration and Larry brought it to my attention, there is a hell of a grade, 15 percent grade.

MRS. AGRESTI: That has been approved by the Highway Superintendent, the plans for the driveway.

MR. TORLEY: Not the Planning Board.

MR. LANGANKE: What's the grade?

MRS. AGRESTI: 15 percent which is what's allowed.

MR. KRIEGER: Whenever the driveway enters onto a public street, they have, the Highway Superintendent has to approve it for among other things, sight distance consideration. Don't forget, it's the obligation of the Planning Board to consider the health, safety and welfare of the community and primary among that would be a consideration of the site distance grades on the driveways. Obviously, it imperils safety to have somebody shooting out on a public road where it's blind or whatever, I'm not saying that this application is or is not, I'm just giving an example.

MR. TORLEY: There are to be two lots now, what they wish to do with those lots, lot line change, is a totally different question. And I do have some reservations of the plans that I see here. We'll worry about that next time I move to table this Greg and Ramona Agresti matter insofar as lot size, road frontage, et cetera, other area variances.

MR. LANGANKE: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

AGRESTI, RAMONA

MR. NUGENT: Request for 6,445 s.f. lot area variance for Lot #1 (existing house thereon) and 42 ft. road frontage variance on Lot #2 (vacant land) to construct single-family dwelling at 59 Lakeside Drive in an R-4 zone. Property recently subdivided.

Robert DiNardo, Esq. and Mr. and Mrs. Agresti appeared before the board for this request.

MR. DINARDO: My name is Robert DiNardo, I represent the applicant. See if I can, maybe I could just first make a little clearer what the nature of the application is. I didn't fill it out, whoever did, I appreciate the help but that is not our application. What we're seeking is an application for an interpretation really to the effect of whether or not there are two existing, pre-existing, non-conforming lots now. If I may, this is a survey and a subdivision proposal. Unfortunately, the map isn't helpful, it's just the opposite because it shows a configuration that we're not interested in but it does have the helpful physical information. Basically, the property is divided into two lots, the dashed line running down the center is the division line between the two original lots. Essentially, the application will consist of an interpretation or a request as to whether or not those two lots constitute pre-existing, non-conforming lots. So for the purpose of the application, and we may bring you in a cleaner, more accurate map, I'd ask that you just please ignore the house shown to the rear marked proposed house and similarly ignore the lot lot lines that are shown there which depicts basically a flag lot. Briefly, the history, if I may, is that the two lots were acquired by F Greg and Ramona Agresti's family and the people that they bought the lots from acquired the lots through two separate deeds and at the appropriate time, I'll deliver all that information. They were separate deeds, two separate deeds for each of the two lots. Those two deeds came into title to one person, by two separate deeds. When that person conveyed out, they conveyed out by single deed describing parcel one and parcel two. That is the way the deeds continued to run. When the Agresti's, Greg

and Ramona, when they took title to the property, they had the property surveyed, that was the first time the property was surveyed. The surveyor, Mr. Zimmerman, who prepared the map, gave them a metes and bounds description of the entire property and at that time, the deed, when they took title from the family, it was again described as lot one and as lot two. But since they had a survey done for the first time, they had the benefit of a perimeter survey of all the property and deeds also describes it as perimeter, in addition to lots 1 and 2. The existing home encroaches over the one lot over to the other, there's a small porch that was enclosed to our knowledge the home was built prior to the effective date requiring building permit, we believe in the late '40's or early '50's, we'll try to get you some documentation on that home was all under one lot until a later time when the porch which is the encroachment was enclosed. At about the same time, late '40's, early '50's, there was also a home on the second, on the left lot if you will when you look at it. Roughly in between where those two homes are shown on the map you but obviously on the left lot. That home burned around 1963, I wish I can tell you it didn't encroach, I don't think it did, but we don't know. It was never surveyed and indeed the property was never surveyed until Mr. and Mrs. Agresti purchased it from the family in '87 and that is when the house was located for the first time and that is when it was realized that there was an encroachment. The property is a single tax lot now. I gather that it's clear that at one time, there were two tax lots and they were for a long time two tax lots as I understand it. Neither Greg nor Ramona nor their family, the Agresti family, did anything to make it one tax lot. Apparently, or I'm guessing somebody did before the Agresti's owned the property but we don't really have any history on that. We're just taking a guess that that happened since at one time they were two, now they are one. That is, I think, those are the significant basic historical facts as we understand it. They were always operating under the assumption they were two lots and they didn't take any action to make it otherwise. They never changed anything from when they acquired the property. There's the coincidence of being a perimeter survey being generated which was used in their deed but

again, that was simply the occasion of the property being surveyed for the first time. So the nature of the application would be an interpretation as to whether or not we have, as we think we have, two pre-existing, non-conforming lots or not.

MR. HOGAN: Could you go over the dates again? The Agresti family, not Ramona and Greg, but the Agresti family, they acquired the property when he--

MR. DINARDO: I have some of those deeds for you. I have ordered a full search but I don't have the search yet.

MR. AGRESTI: It's about a year prior to the first date, '53 is when my family--

MR. DINARDO: Came out of the estate of Frank Agresti, went from Frank, I'm sorry, Ramilda, Alfred, Frank, Jr. Greg in '87 and I thought I had an older deed, I don't. It was acquired originally the first time that it came into the common ownership by separate deeds was in August of '50 and it came from Cruthers and Boose (phonetic) to Persky in 1950 but it then went from Miss Persky to the Agresti family but I don't have that deed information for you but what's your information on that? When did your family first acquire?

MRS. AGRESTI: About '53.

MR. DINARDO: Persky constructed?

MR. HOGAN: Family occupied them, both homes?

MR. AGRESTI: Yes.

MR. HOGAN: The porch that was enclosed on the left side of the house, as you look at it from Lakeside Drive, do you remember what period that was enclosed?

MR. AGRESTI: It's always be there, except it was enclosed.

MR. DINARDO: What's your earliest memory of when it was enclosed?

MR. AGRESTI: '67, maybe. It was a porch at one time.

MR. NUGENT: What you're asking is to ignore the driveway and also the proposed house?

MR. DINARDO: Yes, unfortunately that is on the map we have and it's confusing, probably generate a better map.

MR. TORLEY: Is that what you intend to do if you get the judgment that you are seeking? Is that what you intend to do?

MR. DINARDO: Our preference if, as we think we have two pre-existing, non-conforming lots, our preference would be, cause we think it weighs out better, is to subdivide the property as it's shown here.

MR. NUGENT: What do you do with the enclosed porch?

MR. DINARDO: Because it is just a porch, we would, I'm sorry, you're right, it would not be an encroachment if the lot were reconfigured as shown on this map.

MR. BABCOCK: Maybe I can clear it up just a little bit. Basically if it's two lots, they need a lot line change at the Planning Board. If it's one lot, they need a subdivision. They have been at the Planning Board and the Planning Board has determined in their opinion that it is one lot. To get to this board, they have to have a referral. So I did a referral and in my referral, what I did is I said that block 6 of 1.4 is one lot, the law says you're only allowed one house per lot. Since their desire is to build what this map shows, if the board says either way whether it's two lots or one lot, whatever the decision is, if they want this plan approved, they would need a lot area variance for lot one because it's too small for the zone and they'd also need a road frontage for lot two because they only have 18 feet so if we're going to give them one variance, we can give them two or three or whatever it is. So I wrote it all up that way and whatever the pleasure of the board is, I can change it.

MR. DINARDO: I appreciate that we haven't been totally consistent in what we have been doing either.

MR. TORLEY: They are seeking a subdivision.

MR. BABCOCK: That is correct.

MR. DINARDO: I wasn't at the Planning Board meeting, I'm just going based on my reading of the minutes and if I am reading them accurately, I understand the Planning Board to be saying were this encroachment not there, were it removed that it would indeed be two separate lots, that is how I read the minutes.

MR. NUGENT: Aren't we getting the cart before the horse?

MR. BABCOCK: When they went to the Planning Board, we took it on the basis that it was two lots. And that is the way we were looking at it and the Planning Board said well, if they didn't have this addition encroachment on the other lot, it would be considered non-conforming lot and they can get a building permit tomorrow morning. But since the fact that they have this encroachment, they need this lot line change then it got further involved and the deeds came in. They asked Andy to review the deeds so Andy reviewed the deeds and then went back to the Planning Board and said that, I shouldn't talk for Andy, but in his opinion, it was one lot. So that is where we are at tonight. What we have to do is try to decide whether it's one lot or two lots and this is what they want to do, they basically feel if it's two lots, they have a better chance of going, it's a lot line change and there's no problem. If it's a subdivision, it's going to be harder for them to do.

MR. DINARDO: If I may, also, if it is indeed as we understand it to be two separate lots and they are pre-existing non-conforming, because certainly that is what we had prior to the adoption of the zoning ordinance, while we don't think that is as attractive as the other proposal, at least we would have two lots so that is why we think that is the first threshold determination, it has to be what are our rights now.

MR. BABCOCK: Basically, if it was determined tonight that it is two lots, if they wanted to take down this addition that encroached on the other lot, they can come in and get a building permit and put a house long ways on this lot, end-to-end ranch which they really do not want to do. But if they are forced to do that, that is what they'd do, what they'd like to do is build what you see here. Get a lot line change and build a house down by the lake, Beaver Dam Lake on the edge of the property.

MR. LANGANKE: Now, this property was at one time two parcels and a person purchased both parcels and used them as one?

MR. DINARDO: No, sir, used to be 2. In fact, there were two owners, I don't want to draw on the only map I have, there was a house that burned down in this area in 1967.

MR. AGRESTI: About '63, I'm not really sure.

MR. DINARDO: '63, so it was used as two.

MR. LANGANKE: How did it become one?

MR. DINARDO: Don't know. We're going to look at the property cards and see if the property cards give us a history in terms of when it went from two to one and why we don't know. But frankly, the assessor combining it can't change what's two into one.

MR. TORLEY: A lot of the lots out there were designed very narrow, many people bought two lots and put one house.

MR. AGRESTI: That is why my existing home is pushed all the way to the right side, if you are facing it from the road because there was a lot in between the two and that is why it's all the way to one side.

MR. TORLEY: When was this existing house built with this addition?

MR. DINARDO: Late '40's, early '50's.

MR. TORLEY: Since then, this structure has sat as if this was one lot?

MR. DINARDO: No, if you visualize the other lot in '63 then to me it looks like an encroachment because whoever asked was it used as one or or used as two, I think you asked the right question, it was used as two.

MR. BABCOCK: One quick thing, keep in mind now the encroachment, nobody knew about until 1993.

MR. DINARDO: '87, '88 that is when the first survey was generated.

MR. LANGANKE: What bearing does that have now? We know it's an even encroachment, what does that do?

MR. BABCOCK: Makes it a little worse because if it was two lots and you got one house that splits the lots, it's very difficult to have one house on two lots. They would need a lot line change to correct that.

MR. LANGANKE: Unless he just removed it.

MR. BABCOCK: That is correct.

MR. LANGANKE: He can remove it and he wouldn't need a lot line.

MR. AGRESTI: Then I'd have a long narrow lot.

MR. LANGANKE: You still want two lots?

MR. AGRESTI: I want my two lots, the ideal thing is to have a flag lot, even though I know it's frowned upon.

MR. LANGANKE: That is not the question here.

MR. KRIEGER: No, it is not.

MR. LANGANKE: We don't even want to know about that.

MR. NUGENT: Question is we have to determine whether

it's one lot or two lots.

MR. LANGANKE: Sounds like it's two lots.

MR. TORLEY: If we have decided it's two lots, the existing house is non-conforming.

MR. LANGANKE: It's pre-existing. So it looks like it's two lots, one, two lots and maybe a clerk or somebody treated it as one lot to save time or whatever but it's not their fault.

MR. NUGENT: He has to prove that.

MR. TORLEY: House burned in '63 and from that point until recently, it was treated as one lot.

MR. DINARDO: No, if I may.

MR. HOGAN: Who lived in the house that burned down in 1963?

MR. AGRESTI: We lived in that one first, my family.

MR. HOGAN: Who was living in the front house?

MR. AGRESTI: I believe the Perskys were in that house and we were in the back house to start with and then my family purchased both houses.

MR. HOGAN: Were the Perskys related to you?

MR. AGRESTI: No.

MR. BABCOCK: They were in separate ownership at one time.

MR. AGRESTI: There's two deeds for two lots so it would just seem to me that there's two lots.

MR. KRIEGER: If there was at one time two deeds there's one deed with three descriptions.

MR. AGRESTI: Also my understanding when one family owns it, it just sometimes gets funneled into one tax

thing, it shouldn't change the lots though.

MR. TORLEY: I believe if one person carries 2 non-conforming lots, even if they are pre-existing, the adjacent non-conforming lots can now be split back up again.

MR. KRIEGER: Once they are combined, now the question here is were they ever combined and there are indications both ways. As I indicated previously, the question here is the intent of the owners of the property and their predecessors in the chain of title whenever a situation as you have here where there are indications either way whichever way you look at it, there are indications that it was intended to be two or intended to be one. It is up to the board to determine from those indications what was the intent of the parties, since it is confused and garbled. It was their intent, they treated them as two lots and they always treated them and you find that that is what they did and they always treated them as two lots, then they didn't combine. If it was their intent to treat it as one lot, then they did.

MR. NUGENT: Second question I have was the denial based on non-conforming lot specs?

MR. BABCOCK: The denial was based on conforming because they do not have central water. Non-conforming lot status they would have to have both central water and central sewer. You know, Beaver Dam, they are proposing wells, there's a Beaver Dam Lake Water Corporation out here, I don't know whether it's available to them or not. We didn't take that step, they are proposing a well for the new house.

MR. NUGENT: Do they have sewer?

MR. BABCOCK: Yes, they have a sewer line that goes right across the front of the property.

MR. NUGENT: If they were granted water rights from the water district, then we would have to have these lots as non-conforming lots.

MR. TORLEY: If they are two lots.

MR. NUGENT: Two, they are two lots.

MR. BABCOCK: That is correct, basically, if that was the case, if this house didn't go over the lot line what I would suggest them to do is go to Beaver Dam Lake Water Corporation, see if they can get water. If they said yes they can have a building permit tomorrow but they'd have to build their house on the narrow lot.

MR. DINARDO: Regretably, Greg knows he can't get water.

MR. AGRESTI: Only the Cornwall side that is not true but it's not up by my house, I know that.

MR. HOGAN: Were there any deeds after the fire in 1963?

MR. DINARDO: Yes, the deed, well, certainly these folks took a deed in '87, how about between '63 and '87?

MRS. AGRESTI: When his mom died in '69, they had a new deed deeding to his dad. When his dad died in '82, it was deeded to all the kids.

MR. DINARDO: Inter-family deeds between '63 and '87 when it then went to the next generation.

MR. KANE: In the deeds, are they described as two separate lots?

MR. DINARDO: Yes, there was never any description of the perimeter until they generated it in '87, couldn't have been described any other way, there was no survey. The only descriptions that existed was lot one and lot two.

MR. TORLEY: Thinking about going to the public hearing when there were two houses on the lot they were both occupied by family members?

MR. DINARDO: No.

MR. TORLEY: Two separate families.

MR. AGRESTI: Perskys, who we bought the original both lots from, lived in the existing house and the house that burned down the Agrestis lived in.

MR. HOGAN: They were tenants.

MR. AGRESTI: No, Perskys were the owners of the two pieces of the property.

MR. HOGAN: Originally.

MR. BABCOCK: They bought one and then they both bought the other one at two different times.

MR. DINARDO: Yeah, I'll have a full set of the deeds so you can track it from 1950 on.

MR. KRIEGER: Doesn't the current deed when you say there's no perimeter description, it describes parcel one and parcel two, are there metes and bounds descriptions for each one of those parcels.

MR. DINARDO: Yes. So it isn't a question of two, again word descriptions that are non-specific and then one perimeter, one survey is describing at the end there were all three descriptions, surveyors descriptions with metes and bounds.

MR. LANGANKE: Sounds like to me it's two lots, you're looking for a reading, an opinion from the board.

MR. NUGENT: At a public hearing.

MR. DINARDO: Just one other procedural point, I gathered what you're thinking we want to do or maybe you'd prefer to do is to do both steps, is it pre-existing non-conforming and then secondly, a variance that would permit the flag lot. If the board has no serious objection, I'd rather not because I'd rather clarify the status of those two existing lots now and go back to the Planning Board, the Planning Board has spent a lot of time with it as I understand,

although with a lot of emphasize on the driveway grade but I think and I sense that the Planning Board may have had enough reservations about these other issues that they didn't get into these two lots as precisely as they otherwise would. So even though it's a little extra step for us, I'd rather take care of the one lot or two lot issue here, then go to the Planning Board. Now, beyond that issue and process the subdivision and obviously they can't process it until it comes back here but at least then if it came back here, I dib't know what your practice is, it could come back here with a recommendation that there's a possibility that the configuration lots might change somewhat because now they really have it under the microscope.

MR. AGRESTI: How does the Agresti family show intent to make it one lot? How would we have done that?

MR. DINARDO: You're going to show the facts.

MR. KRIEGER: First of all, by voluntarily requesting that the tax authorities tax it as one lot. That is the first indication. And it didn't happen by some bureaucratic, some clerk taking it on his own that was a result of a request from what I understand.

MR. DINARDO: Do you know who made the request and when?

MR. KRIEGER: No, I don't but I know that the way that happens it's the result of a request.

MR. DINARDO: Presuming it happened because that is the only way it could happen as opposed to having specific knowledge.

MR. KRIEGER: That is correct.

MR. AGRESTI: Where would you gather that information?

MR. DINARDO: You're looking for a negative, you're going to give the board the facts.

MR. AGRESTI: We've never built anything on that second lot.

MR. DINARDO: The board will infer intention based on the facts you have given them. We can't x-ray your mind. I guess I should redo that application then cause it doesn't really correspond to what we have.

MR. HOGAN: You're asking us to rule on whether you have one or two lots.

MR. DINARDO: That is all at this time.

MR. LANGANKE: You're saying we have to go with a public hearing?

MR. KRIEGER: You always have to.

MR. KANE: I move we set them up for a public hearing.

MR. LANGANKE: Second it.

ROLL CALL

MR. KANE	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. HOGAN	AYE

MR. HOGAN: I'd like to see a chain of deeds.

MR. DINARDO: I'll have copies of the deeds from no later than 1950 on. Should I redo the application?

MRS. BARNHART: We haven't done it yet, that is it right there.

MR. KRIEGER: When you come back, let the board know when that expansion of that existing house took place to see it in a time continuum.

MR. DINARDO: Porch was always there.

MR. AGRESTI: Foundation was always there.

MR. DINARDO: It was enclosed at a later time and we'll give you whatever we can from whatever sources we can

May 9, 1994

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develop, thank you.

MR. TORLEY: When the house itself was built.

MR. DINARDO: Everything, yeah, all the facts we can gather, thank you.

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Prelim.

1/9/95

7:30 p.m.

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-23

DATE: 7 DEC 94

APPLICANT: GREGORY & RAMONA AGRESTI

59 LAKESIDE DRIVE

NEW WINDSOR N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 8 JULY 1993

FOR (SUBDIVISION - ~~STATE PLAN~~)

LOCATED AT LAKESIDE DRIVE

ZONE R-4

DESCRIPTION OF EXISTING SITE: SEC: 60 BLOCK: 1 LOT: 4

IS DISAPPROVED ON THE FOLLOWING GROUNDS: PROPOSED LOT

NO 1 - LOT AREA LOT WIDTH SIDE YARD

PROPOSED LOT 2 - LOT WIDTH & STREET FRONTAGE.


MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-4</u>	USE <u>A-9</u>	<u>LOT 1 / LOT 2</u>	
MIN. LOT AREA	<u>21 780</u>	<u>13835^{*2} / 24827</u>	<u>7945 / —</u>
MIN. LOT WIDTH	<u>100</u>	<u>70^{*1} / 97^{*1}</u>	<u>30 / 3</u>
REQ'D FRONT YD	<u>35</u>	<u>30^{*1} / 35</u>	<u>— / —</u>
REQ'D SIDE YD.	<u>15</u>	<u>6^{*1} / 25</u>	<u>9 / —</u>
REQ'D TOTAL SIDE YD.	<u>30</u>	<u>30 / 55</u>	<u>— / —</u>
REQ'D REAR YD.	<u>40</u>	<u>128 / 150</u>	<u>— / —</u>
REQ'D FRONTAGE	<u>60</u>	<u>73^{*1} / 18^{*2}</u>	<u>— / 82 FT</u>
MAX. BLDG. HT.	<u>35</u>	<u>30 / 35</u>	<u>— / —</u>
FLOOR AREA RATIO	<u>N/A</u>	<u>—</u>	<u>—</u>
MIN. LIVABLE AREA	<u>1000</u>	<u>1200 / 1000</u>	<u>—</u>
DEV. COVERAGE	<u>20 %</u>	<u>11 / 19 %</u>	<u>— %</u>
O/S PARKING SPACES	<u>N/A</u>	<u>N/A</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
 (914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
 OF APPEALS. 1* PRE-EXISTING NON-CONFORMING (SAME OR BETTER PROPOSED)
 2* NON-CONFORMANCE BEING CREATED OR MADE WORSE
 CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

REGULAR IETMS:

AGRESTI LOT LINE CHANGE (93-23) LAKESIDE DRIVE

Gerald Zimmerman appeared before the board for this proposal.

MR. PETRO: Mark, are we looking for conceptual approval to send them to the Zoning Board again?

MR. EDSALL: That would be my suggestion.

MR. PETRO: Proceed, Mr. Zimmerman.

MR. ZIMMERMAN: Based on previous reviews the board had reservation about constructing the new driveway off of Lakeside Drive in its configuration that we had previously showed it, for the proposed new lot in the back lot number 2. So based on that concern, we met at the site with Mr. Edsall and discussed moving that location, moving that driveway location to make the grading easier across the front of the property. And basically, we presented two plans or two alternates to accomplish this on both of the plans, alternate A and alternate B, the driveway location that we show is in the exact same location on both plans. The only difference between the two plans is that on alternate A, we're subjecting the front, the driveway location as it comes in off of Lakeside Drive to an easement and and with alternate B, we're making that shaded area which is shown on alternate B to be actually part of lot number 2. Basically, we felt that either alternative would be acceptable to the property owners, I think we would prefer to have it as an easement.

MR. PETRO: Well, it would be more of a, it would be a better lot line, the lot line on B I think it's very irregular to say the least.

MR. ZIMMERMAN: In doing this approach, by moving that driveway we've eliminated the retaining wall which was required along the southerly property line. So we've eliminated the retaining wall and we don't have to do any grading in the location of that sewer manhole.

MR. PETRO: Manhole would be left and you wouldn't need anything.

MR. ZIMMERMAN: That is correct.

MR. PETRO: To address that.

MR. ZIMMERMAN: So that was the reason for the changes.

MR. PETRO: Do you have a profile of the driveway for the slope?

MR. ZIMMERMAN: Yes. In doing this, we modified the profile by lengthening the driveway, we were able to reduce the grade to 14 percent.

MR. PETRO: From 15?

MR. ZIMMERMAN: Yes.

MR. PETRO: I remind the members that we're here to have a conceptual approval of this so we can send him to the Zoning Board for the necessary variances. So with that in mind, do any of the other members have any input on this?

MR. VAN LEEUWEN: Mr. Chairman, does this go to where the sewer manhole is?

MR. PETRO: The manhole what he just told us about by shifting the driveway to the north, they reduced the grade and also changing the location of the driveway the manhole is now going to be untouched.

MR. EDSALL: Jim, I still believe you're going to have quite a bit of fill around it. That is something that Gerry and I can work out. I know you have moved the contours but you still have a 4 foot fill, three foot off the property line which is not possible to accomplish without something either a retaining wall or even shifting the driveway over a little more. I'm not saying it makes the job unworkable, I think we can straighten it out. But I just--

MR. DUBALDI: How much of a dropoff?

MR. EDSALL: What I am saying there's several areas where you have 4 foot of fill, three foot off the property line, which is greater than a one-on-one slope unless you put a retaining wall in. That issue still has to be resolved. If you look at one of my review comments, I suggested that once the board either agrees or disagrees with the layout, that Gerry in traveling to the ZBA, consider shifting the driveway slightly over to the north so that they would not need any retaining walls and they'd have enough room to provide the grading.

MR. PETRO: Mark, if we're going to go with the alternate A which is an easement instead of the lot line, I don't see any problem shifting that driveway another foot or two foot so you would have one-on-one slope and you're doing it through the easement anyway, you get the easement that much further over.

MR. EDSALL: The portion I'm talking about shifting is the portion that you have gone into their own property, in other words, lot two's property and you're running parallel to the property line.

MR. ZIMMERMAN: But as the Chairman suggested, we could extend the easement further on to lot number one.

MR. EDSALL: Again, you may find that the Zoning Board may tell you that if they are going to grant you a lot area variance for lot one, they'd rather have you move the lot line two or three more feet. So again, that is something if the board believes that that is the right way for the layout to occur, let Gerry take that information to the Zoning Board and let them decide.

MR. PETRO: The lot line may be over another two foot or three foot or one foot so you can accomplish the one-on-one slope without a retaining wall and the rest would be--

MR. EDSALL: It would be nice to achieve a two on one if possible. In any case, that is a detail that if the board has an opinion, if you put it in the minutes, the ZBA would be aware of it when they reach their

decision.

MR. PETRO: We now have a full board, I think. Do you have anything else on this?

MR. VAN LEEUWEN: I don't care how you put the driveway or where you put it still it's a very, I don't like it, never have.

MR. SCHIEFER: I made the comment last time that we did another lot out here lot line change and we told the applicant do not do exactly what we're doing here, further subdivision.

MR. PETRO: Well, I don't believe that the applicant is doing a further subdivision. I think what's happened here they went to the Zoning Board for a definition of what was the property, original property and they were told that it is indeed two lots. So by Town Law and their right to build another home on that second lot, they have the right to build it. And what we need to do is interpret the best way to go about that and I think they have come here two or three times, come up with two or three different ideas so we're not doing a subdivision or creating another lot. The lot already exists and they do have a right to build a house on it.

MR. BABCOCK: Doing a lot line change.

MR. SCHIEFER: That is what I thought.

MR. PETRO: We're not creating a new lot. The lot already exists and the lot--

MR. SCHIEFER: Instead of two very long, narrow lots, you have got one fairly normal and one flag lot.

MR. PETRO: Correct. Remember they had the other alternative to put the house on the long lot, the driveway won't be changed and we decided that it would be better to have the house maybe in the center of the back lot instead of on the long skinny lot.

MR. SCHIEFER: I don't like it but it's better than it was.

November 9, 1994

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MR. LANDER: I have no problem with it, I don't like the 14 percent slope on the driveway but it's not my driveway so.

MR. PETRO: And they did install the parking area at the top for inclement weather.

MR. EDSALL: Yes.

MR. LANDER: I guess it's half dozen of one, Mr. Chairman, they have a right to build a house there so I like alternate A myself.

MR. DUBALDI: Nothing to add, alternate A.

MR. SCHIEFER: Mr. Petro, the parking space on top is that the lot line that goes through the middle of it?

MR. PETRO: No. What they are going to do, well, that would be the lot line with alternate A because they are going to receive or go for an easement to follow the driveway line instead of making that driveway the lot line as suggested in alternate B.

MR. PETRO: So you'd also be getting an easement for the parking lot. I don't believe an easement would be hard to obtain being that the same people on both lots.

MR. EDSALL: Jim, just a comment as far as the variances that they would need with the lot line following the north side of the driveway or the driveway being via that area being created as an easement in either case the variances are the same because the area's subtracted out so they are going to be seeking the same variance so at that point, it becomes a question should they own the property they are driving over or should they have an easement and that is something that you should come up with an answer on what you prefer and the same degree of variance is required either way.

MR. PETRO: Carmen and Ron have told us that they prefer the easement and I'm in agreement with that. Mr. Schiefer also. Henry?

MR. SCHIEFER: I agree.

MR. VAN LEEUWEN: I have no comment, Mr. Chairman.

MR. PETRO: Okay, so what we're going to do is we can have a motion for approval.

MR. LANDER: So moved.

MR. DUBALDI: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Agresti lot line change on Lakeside Drive. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. LANDER	NO
MR. DUBALDI	NO
MR. PETRO	NO
MR. VAN LEEUWEN	ABSTAIN
MR. SCHIEFER	NO

MR. PETRO: You can go to the Zoning Board and get the necessary variances and you have them on the map at some point in the future, we'll gladly put you back on the agenda at that time, thank you.

Pk. publish immediately. Send bill to applicant Agresti at below address

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 13

don't need Request of GREGORY AGRESTI and RAMONA AGRESTI

for a VARIANCE of the Zoning Local Law to permit: Construction of a single-family residence with insufficient lot area, lot width, side yard and ~~street frontage~~ on Lot #1 and insufficient lot width, and street frontage on Lot #2; being a VARIANCE of Section 48-12 - Table of Use/Bulk Regs.,

Cols. C,D,F & H,

for property situated as follows:

59 Lakeside Drive, New Windsor, N. Y. 12553

known as tax lot Section 60 Block 1 Lot 4.

SAID HEARING will take place on the 23rd day of January, 1995, at New Windsor Town Hall, 555 Union Avenue, New Windsor, New York, beginning at 7:30 o'clock P.M.

JAMES NUGENT

Chairman

By: Patricia A. Barnhart, Secy.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

94-13

Date: 1/10/95

I. ✓ Applicant Information:

- (a) Ramona + Gregory Agresti, 59 Lake Dr., New Windsor X
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) Zimmerman Engineering, Rt 17M, Hamman, NY
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- () Use Variance () Sign Variance
- (X) Area Variance () Interpretation

III. ✓ Property Information:

- (a) R-4 59 Lakeside Drive 60-1-4 #2-452X50 *
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 1956
- (e) Has property been subdivided previously? Yes
- (f) Has property been subject of variance previously? No
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: No
- _____

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: _____
(Describe proposal) _____
- _____

(b) ^{N/A} The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. ✓ Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. C, D, F & H.

Requirements	Proposed or Lot Available	Variance Request
Min. Lot Area <u>21780</u>	<u>13835</u> ^{Lot 1} <u>24827</u> ^{Lot 2}	<u>7945</u>
Min. Lot Width <u>100</u>	<u>70</u> ^{Lot 1} <u>97</u> ^{Lot 2}	<u>30</u> <u>3</u>
Reqd. Front Yd. <u>35</u>	<u>30</u> <u>35</u>	<u>—</u> <u>—</u>
Reqd. Side Yd. <u>15</u>	<u>6</u> <u>25</u>	<u>9</u> <u>—</u>
Reqd. Total Side Yd. <u>30</u>	<u>30</u> <u>55</u>	<u>—</u> <u>—</u>
Reqd. Rear Yd. <u>40</u>	<u>128</u> <u>150</u>	<u>—</u> <u>—</u>
Reqd. Street Frontage* <u>60</u>	<u>73</u> ^{FT} <u>118</u> ^{FT}	<u>—</u> <u>32 FT</u>
Max. Bldg. Hgt. <u>35</u>	<u>30</u> <u>35</u>	<u>—</u> <u>—</u>
Min. Floor Area* <u>1000</u>	<u>1200</u> <u>1000</u>	<u>—</u>
Dev. Coverage* <u>20</u> %	<u>11</u> <u>19</u> %	<u>—</u> %
Floor Area Ratio** <u>na</u>	<u>—</u>	<u>—</u>
Parking Area <u>na</u>	<u>na</u>	<u>—</u>

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

No undesirable change in the character of the neighborhood; the benefit sought cannot be achieved by any other method; the proposal will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; the difficulty was self-created but should not necessarily preclude the granting of the area variances.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) N/A Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) N/A What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation: N/A

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. ☒ Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Gregory Agresti & Ramona Agresti

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#94-13.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On January 10, 1995, I compared the 38 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart

Sworn to before me this
10th day of January, 1995.

Deborah Allen
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 94-13

Request of Gregory and Ramona Agresti

for a VARIANCE of the Zoning Local Law to permit:

1. Interpretation concerning preexisting non-conforming lots;
2. Variance of lot size and yard requirements to allow lot line change.

being a VARIANCE of Section 48-12, Bulk Regulations, Col. C, H
(lot size, and road frontage) and Section 48-33A

for property situated as follows:

on the west side of Lakeside Drive, 150 feet south of the intersection of
Lakeside Drive and Vascello Road, being known as 59 Lakeside Drive,
New Windsor

known as tax lot Section 60 Block 1 Lot 4.

SAID HEARING will take place on the 11th day of July,
19 94, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

-----X
In the Matter of the Application of

GREGORY AGRESTI,
#94-13.

DECISION TO
INTERPRET STATUS
OF PARCEL(S)

-----X
WHEREAS, GREGORY AGRESTI, residing at 59 Lakeside Drive, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals for an interpretation of Section 48-19D, Site Development Plan Review of the Zoning Local Law and 6,445 s.f. lot area and 42 ft. required street frontage concerning property located on Lakeside Drive in an R-4 zone; and

WHEREAS, a public hearing was held on the 11th day of July, 1994, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant and his wife and Robert Dinardo, Esq. of Jacobowitz & Gubits, attorneys at law, appeared for the applicant; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, two spectators spoke at the hearing. Neither spectator expressed any objection. One described occasions when the applicant's predecessor in title described the subject parcel as two single lots.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The applicant owns two contiguous lots in the Beaver Dam section of the Town of New Windsor, each lot measuring approximately 40 ft. x 452 ft.

(b) The lots were conveyed to the applicant in a single deed containing a separate metes & bounds description for each lot and also an over-all metes & bounds description for the entire parcel.

(c) The parcel described on the survey prepared by Zimmerman on a survey prepared by Zimmerman Engineering in 1987 shows this parcel as two separate lots although a metes & bounds description of the entire parcel was prepared at that time.

(d) There is now a single house on one parcel, most of which is on one of the lots but which encroaches slightly onto

the other lot. There was at one time a house on each lot but the house on the second lot was destroyed.

(e) The lots are described as a single lot on the Orange County Tax Map but it is not clear how this came to be. Neither the applicants nor any predecessor in title requested this designation.

(f) The grantors in the chain of title conveyed the lots as two separate lots described separately in a single deed in a chain of deeds beginning in 1950.

(g) There was a map prepared by the then town engineers in connection with the acquisition of a sewer easement which depicted two separate lots.

(h) There is insufficient data presented to the Board to allow it to make a decision on the area variance request.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The applicants and all grantors intended to maintain the two separately described parcels as separate lots.

2. The indicia of intent to treat the parcels as one lot are weaker than those indicating an intent to treat it as two lots.

3. The applicants and the prior owners at all times have treated the parcels as two separate lots and there actions were and are consistent with this treatment.

4. There is a single tax bill covering the two lots and a single designation by the Orange County Tax Department showing them to be one lot but this is not determinative since there is no evidence that the applicants or prior owners did anything to cause this designation or in any way participated in it.

5. The lots never became attached and were always separate and were treated as such. They are now two separate lots.

6. There was insufficient data presented with respect to the area variance to allow the Board to make a determination. The area variance request is tabled until a date to be determined in the future when the applicant may present further evidence and request the Board's decision on that application.

NOW, THEREFORE, BE IT

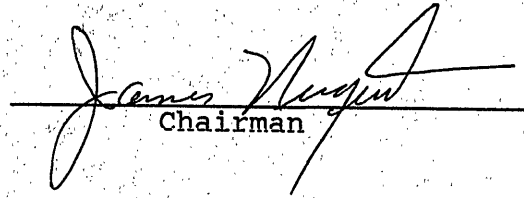
RESOLVED, that the Town Code of New Windsor, Section 48-19D as it applies to the applicant's property shall be interpreted in such a manner that the parcels of land owned by the applicant shall be considered two separate lots or parcels and not a single parcel or lot and, it is further

RESOLVED, that the area variance request shall be tabled to an unspecified date and shall neither be granted or denied, and

it is further

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: October 24, 1994.


Chairman

(ZBA DISK#12-092794.AG)

#1 EBA 5-9-94
SET UP FOR P/H

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: MAY 2, 1994

REVISED 6-28-94 MB

APPLICANT: GREGORY AND RAMONA AGRESTI
59 LAKESIDE DRIVE
NEW WINDSOR, N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: MAY 2, 1994

FOR (BUILDING PERMIT): TO BUILD HOUSE

LOCATED AT: 59 LAKESIDE DRIVE

ZONE: R4

DESCRIPTION OF EXISTING SITE: SECTION: 60, BLOCK: 1, LOT: 4

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. NEED INTERPRETATION. IS SECTION 60, BLOCK 1, LOT 4, ONE LOT OR TWO LOTS
2. LOT AREA
3. ROAD FRONTAGE


BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: R4	USE	
MIN. LOT AREA	LOT #1 21780 SQ.FT.	15335 SQ.FT. 6445 SQ.FT.
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD		
REQ'D TOTAL SIDE YD		
REQ'D REAR YD.		
REQ'D FRONTAGE	LOT #2 60 FT.	18FT. 42FT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.

INTER-OFFICE CORRESPONDENCE

TO: JAMES NUGENT, CHAIRMAN - ZBA
LARRY TORLEY, V. CHAIRMAN
DANIEL HOGAN
HERBERT LANGANKE
MICHAEL KANE

FROM: ATTORNEY FOR ZBA KRIEGER

SUBJECT: AGRESTI, GREGORY AND RAMONA (ZBA 94-13)

DATE: MAY 12, 1994

Pursuant to your request, I have reviewed the Planning Board minutes on this matter. It appears that two (2) meetings were held on this matter by the Planning Board on July 21, 1993 and August 25, 1993. I have provided copies of those minutes to Pat and asked that she make additional copies thereof and forward them to you for your review.

You are referred to Section 48-26(D) on page 4869 of the Town Code. The applicant claims that the parcels involved here are two separate lots. If that is true, each of these lots appears to be non-conforming as to bulk and the two lots are in the "same ownership and are adjoining". The question under that section becomes, did they become "subsequently attached". Mere common ownership and adjoining status alone do not make these a single lot.

Pursuant to my telephone conversation with Robert Stiller of the Orange County Tax Map Department, it appears that these parcels have been taxed as a single lot since 1957. No records have been cited to me by either the county department or the New Windsor Tax Assessor which would indicate how these parcels became taxed as a single lot.

It also appears from the county tax map records that these parcels were owned by members of the Agresti family and were transferred between family members in a number of transactions until the last transaction in 1988 when they came into the ownership of this applicant and his wife.

It is the task of the Zoning Board to interpret the Zoning Local Law of the Town of New Windsor to determine whether these are two separate lots or whether they became joined together as a single lot or, in the words of the town statute, "subsequently attached". There are indicia of an intent on the part of the present owners' predecessor(s) in title to treat this as a single lot and indicia that they continue to treat it as two separate lots.

If the ZBA interprets this as two separate lots if the applicant desires to change the line between those lots, he must obtain the approval of the Planning Board for a lot line change. If the ZBA determines that they are a single lot and the applicant wishes to separately develop part of the property, then he must obtain a

subdivision approval from the Planning Board. It is my understanding that the applicant is not now applying for any area or other variances.

If you have any questions please feel free to call me.

Andrew S. Krieger, Esq.

cc: Supervisor Meyers
Robert Dinardo, Esq. w/o enclosure

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

94-13.

Date: 06/28/94

I. Applicant Information:

- (a) Gregory and Ramona Agresti, 59 Lakeside Drive, New Windsor, NY 12553
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee)
- (c) Jacobowitz & Gubits, Esqs., 158 Orange Ave., PO Box 367, Walden, NY 12586
(Name, address and phone of attorney)
- (d) Zimmerman Engineering & Surveying, P.C., Route 17M, Harriman, NY 10926
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- (☐) Use Variance (☐) Sign Variance
2. (☒) Area Variance 1. (☒) Interpretation

III. Property Information:

- (a) R-4 Lakeside Drive (Lots I & II) 60-1-4 I: 0.414
(Zone) (Address) (S B L) II: 0.508
- (b) What other zones lie within 500 ft.? N/A
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 1988
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A
- _____
- _____
- _____

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) N/A
- _____
- _____
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Bulk Regulations Regs., Col. C,H.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u>21,780 s.f.</u>	<u>15,335 (Lot 1)</u>	<u>6,445 s.f.</u>
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* <u>60 ft.</u>	<u>18 (Lot 2)</u>	<u>42 ft.</u>
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

See attached narrative

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation.

(a) Interpretation requested of New Windsor Zoning Local Law, Section 48-33A, Table of _____ Regs., _____.

(b) Describe in detail the proposal before the Board:
See attached narrative

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Gregory and Ramona Agresti
59 Lakeside Drive
New Windsor, NY 12550

Factual Circumstances

Mr. and Mrs. Agresti own two lots ("I" and "II") of land on Lakeside Drive. The Agrestis live in a single family residence that was built on Lot I in the 1950's by Dorothy Persky, the original owner of these lots.

These lots were created by a plan of subdivision that was filed in 1949 by William J. Cruthers and Charles Boos. On August 11, 1950, Cruthers and Boos conveyed Lot I to Mrs. Persky by deed. At that time, Mrs. Persky had already acquired Lot II by a separate deed from Cruthers and Boos dated April 18, 1950.

On September 30, 1957, Mrs. Josephine Agresti (Gregory's mother) purchased these lots from Mrs. Persky. At that time, Mrs. Persky had been living in a single family house that was constructed on Lot 1. That house still exists.

Lot 2 was improved with a single family bungalow-type residence. It was used by Joseph and Kitty Agresti between 1957 and 1960. The Agresti family moved into this house in 1960 while they rented the larger house to the Dam family.

The bungalow was destroyed by fire in 1963. Family circumstances made it impossible to reconstruct the bungalow. Following the death of Mrs. Agresti in 1979, both lots were transferred to first to Frank Agresti, her husband, by deed and then to the Agresti children by deed dated Apr. 4, 1987.

Gregory and Ramona Agresti then acquired both parcels by deed in 1988. In each of these conveyances, the lots were separately described by the original metes and bounds descriptions.

Statement of Actions Requested

1. The Agrestis request that the Zoning Board of Appeals determine that Lot 2 is an existing non-conforming building lot and that they are entitled to issuance of a building permit.

Jurisdiction

2. To facilitate the development of Lot II, the Agrestis had Zimmerman Engineering and Surveying prepare a plan for a lot line revision. The revised

building lot would allow construction of a new house further from the road on Lot "2" while increasing the side yards for the existing house on Lot "1".

The Planning Board has referred this plan to the Zoning Board of Appeals for two variances required by that plan of development:

- a. variance of the road frontage requirement to allow Lot 2 (the building lot) to have 18 feet of frontage. 60 feet is required.
- b. variance of the lot area requirement to allow the area of Lot 1 (the lot with the existing residence) to be reduced from 18,034 to 15,335 square feet. The required area is 21,790 square feet.

Reasons Supporting Variance

Approval of the variance requests will enable development of Lot 2 in a manner that reduces existing non-conformities with the yard requirements and eliminates an encroachment by the existing residence on Lot II.

Approval of the variance requests will not have any detrimental effect on the health, safety or welfare of the immediate neighborhood, since lot II could be improved without the variances as a preexisting non-conforming lot. Although lot I is currently non-conforming as to area, the variance request is less than fifteen percent, and will still result in a substantially larger lot than the 5,000 square foot minimum lot size permitted by the zoning law and those found along Shore Drive (see Tax Map 62).

The variances requested are consistent with the existing pattern of development and character of the community. As the attached tax maps demonstrate, many properties in the Beaver Lake area were developed in this manner as the result of the small lot subdivision plans that were characteristic of the 1940's and 1950's.

Therefore, many lots now have similar or smaller lot areas and frontage. See nos. 57 (Vacsello/Schiavone Roads), 60 (Lake Side Drive), 62 (Shore/Oak Drives, Linden/Walnut/Maple Avenues).

It should also be noted that the reduced lot area will not have adverse impacts on sanitary septic disposal since the Town sewer system is available to both lots.

**Gregory and Ramona Agresti
59 Lake Side Drive
New Windsor, New York**

Exhibit List

- A. Deed: April 18, 1950 Cruthers and Boos to Persky (Lot II)**
- B. Deed: August 11, 1950 Cruthers and Boos to Persky (Lot I)**
- C. Deed: Sept. 30, 1957 Persky to Josephine Agresti (L. 1442 P. 544)**
- D. Deed: August 4, 1979 Frank Agresti, Alfred Agresti, Frank Agresti, Jr., Ramilda Agresti, and Gregory Agresti to Frank Agresti (L. 2144 P. 528)**
- E. Deed: Feb. 28, 1987 Celia Agresti, as Executrix of Frank Agresti, to Ramilda Agresti, Alfred Agresti, Frank Agresti, Jr. and Gregory Agresti (L. 2689 P. 131)**
- F. Deed: March 2, 1988 Ramilda Agresti, Alfred Agresti, Frank Agresti, Jr. and Gregory Agresti to Gregory and Ramona Agresti (L. 2904 P. 330)**
- G. Tax Maps, showing comparable lot sizes in vicinity of property**
 - Map 57, general orientation**
 - Map 60, showing property along Lake Side Drive**
 - Map 62, showing properties in vicinity**
- H. Map of Lands of Frank Agresti prepared by Town of New Windsor for Sewer District Easement Acquisition, dated April, 1984, showing Lots I and II.**
- I. Map, Zimmerman Engineering and Surveying, P.C.**
- J. Affidavit of Ramilda (Agresti) Newell.**

Deed of Indenture

Made the *18th* day of April Nineteen Hundred and Fifty

Between WILLIAM J. CRUTHERS, residing at LaGrangeville, no street or number, Dutchess County, New York and CHARLES BOOS, office and Post Office address 2 Cannon Street, Poughkeepsie, New York

part 1es of the first part, and

DOROTHY PERSKY, residing at 1514 49th Street, Brooklyn 19, New York

party of the second part,

Witnesseth

that the part 1es of the first part, in consideration of
 --- ONE HUNDRED --- Dollars
 (\$ 100.00) lawful money of the United States, and other good and valuable considerations paid by the part y of the second part, do hereby grant and release unto the part y of the second part, her heirs and assigns forever, all that lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange and State of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson, the said point of beginning is South 29°10' West 60.83 feet from the southerly end of a course in the boundary line which is described in the deed of conveyance for the said farm as South 23° 58' West 95.00 feet; running thence (1) South 70° 35' East 432.13 feet, thence (2) South 5°50' West 51.40 feet along the westerly side of a private road which crosses the said farm acquired from Anna Johnson, thence (3) North 70°35' West 452.75 feet, thence (4) North 29°10' East 50.70 feet, along the said westerly boundary line of the said farm acquired from Anna Johnson, to the point of beginning. Containing 0.508 Acres of land more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake for boating, fishing, recreation and sports insofar as the parties of the first part have the right to grant such use to the party of the second part. It being understood and agreed by the parties hereto that only boats propelled by hand or wind shall be used upon said Lake, and that no boats propelled by motors, engines, or other mechanical power will be permitted or used thereon, and that said Lake shall not be used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part assume no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that she will not suffer nor permit at any time any advertising signs nor any fowls or other livestock, except a pet, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I development; nor suffer any

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manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said Lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company, as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purpose, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining said premises to the center line thereof, subject to the rights of the Grantors, their heirs and assigns, to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns, in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75° 15' East 522 feet to the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet, along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South 65° 44' East 214.23 feet, over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18° 22' East 33 feet, along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South 12° 30' East 68 feet, along the westerly line of the said right of way, to a point thence (5) North 65° 44' West 270 feet more or less, over and through land of the said Cruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

parties of the first part in and to said premises,
 To have and to hold the premises herein granted unto the part y
 of the second part, her heirs and assigns forever.

And said parties of the first part

covenant as follows:

First. That said parties of the first part are

seized of said premises in fee simple, and have good right to convey the same;

Second. That the party of the second part shall quietly enjoy the said premises;

Third. That the said premises are free from incumbrances; except as hereinabove stated.

Fourth. That the parties of the first part will execute or procure any further necessary assurance of the title to said premises;

Fifth. That said parties of the first part

will forever warrant the title to said premises.

Sixth. That the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

In Presence of

Albert J. Leake

William J. Cuthbert

Clunk Bm



State of New York }
County of DUTCHESS } ss..
of

61

On this
Fifty

18th

day of April Nineteen Hundred and
before me, the subscriber, personally appeared

WILLIAM J. CRUTHERS and CHARLES BOOS

to me personally known and known to me to be the same person s described
in and who executed the within Instrument, andt he y
acknowledged to me that t he y executed the same

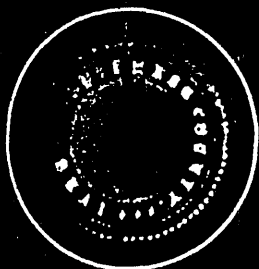
Albert J. Drake

ALBERT J. DRAKE
NOTARY PUBLIC OF NEW YORK STATE
RESIDING IN DUTCHESS COUNTY & CO.
COMMISSION EXPIRES MARCH 30, 1952

STATE OF NEW YORK, } ss.:
COUNTY OF DUTCHESS, }

— Notary —

I, FREDERIC A. SMITH, County Clerk and Clerk of the Supreme Court of the State of New York in and for Dutchess
County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY THAT



Albert J. Drake
whose name is subscribed to the foregoing certificate of acknowledgment or proof of the annexed
instrument, was at the time of his execution the same a NOTARY PUBLIC in and for the State of New
York, duly commissioned and sworn and qualified to act as such throughout the State of New York;
that pursuant to law a commission of a certificate of his appointment and qualifications, and his ante-
cedent signature, have been filed in my office; that as such Notary Public he was duly authorized by
law of the State of New York to administer oaths and affirmations, to receive and certify the
a knowledge of proof of deeds, mortgages, powers of attorney and other written instruments for
leases, mortgages and beneficiaries to be read in evidence or recorded in this State, to protect notes
and to receive and certify affidavits and depositions; and that I am well acquainted with the handwriting
of such Notary Public, and have compared the signature on the annexed instrument with his autograph
signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal this 18th day of April, 1950

County Clerk and Clerk of the Supreme Court, Dutchess County.

A true record entered May 19th 1950 at 9 A. M.

F. A. Smith

Clerk

Gifts Indenture

Made the *11th* day of August Nineteen Hundred and Fifty

Between WILLIAM J. CRUTHERS residing at LaGrangeville (no street or number) Dutchess County, New York, and CHARLES BOOS office and post office address 2 Cannon Street, Poughkeepsie, New York

part 1es of the first part, and

DOROTHY PERSKY, residing at 1514 - 49th Street, Brooklyn 19, New York

part y of the second part,

Witnesseth that the parties of the first part, in consideration of (\$100.00) lawful money of the United States, and other good and valuable considerations paid by the part y of the second part, do hereby grant and release unto the part y of the second part, her heirs and assigns forever, all that lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson, the said point of beginning is South 29°10' West 7.51 feet from the southerly end of a course described in the deed of conveyance for the said farm, as South 23°58' West 95.00 feet; running thence over and through the said farm the following three courses namely; (1) South 67°58½' East 401.46 feet, (2) South 13°15½' East 40.78 feet along the westerly side of a private road which crosses the said farm, (3) North 70°35' West 432.13 feet, thence along the westerly boundary line of the said farm, (4) North 29°10' East 53.36 feet to the point of beginning. Containing 0.414 acres more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake for boating, fishing, recreation and sports insofar as the parties of the first part have the right to grant such use to the party of the second part. It being understood and agreed by the parties hereto that only boats propelled by hand or wind shall be used upon said Lake, and that no boats propelled by motors, engines, or other mechanical power will be permitted or used thereon, and that said Lake shall not be used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part assume no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the Lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that she will not suffer nor permit at any time any advertising signs nor any fowls or other livestock, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within

500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cess-pool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said Lake.

Subject to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purpose, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described proposed roads

Together with all the right title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining said premises to the center line thereof, subject to the rights of the Grantors, their heirs and assigns, to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns, in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75° 15' East 522 feet in the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet, along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South 65° 44' East 214.23 feet, over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18° 22' East 33 feet, along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South 12° 30' East 68 feet, along the westerly line of the said right of way, to a point thence (5) North 65° 44' West 270 feet more or less, over and through land of the said Cruthers and Boos to the point of beginning. Containing 0.55 acres more or less.

Together with the appurtenances and all the estate and rights of the part 1st of the first part in and to said premises,

To have and to hold the premises herein granted unto the part y of the second part, her and assigns forever.

And said parties of the first part

covenant as follows:

First. That said parties of the first part are

seized of said premises in fee simple, and have good right to convey the same;

Second. That the part y of the second part shall quietly enjoy the said premises;

Third. That the said premises are free from incumbrances; except as hereinbefore stated.

Fourth. That the parties of the first part will execute or procure any further necessary assurance of the title to said premises;

Fifth. That said parties of the first part

will forever **Warrant** the title to said premises.

Sixth. That the grantors will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

In Presence of

Albert J. Hobe

William J. Gault

Charles B. Bm

State of New York

County of DUTCHESS
of

ss..

613

On this
Fifty

11th

day of August Nineteen Hundred and
before me, the subscriber, personally appeared

WILLIAM J. CRUTHERS and CHARLES BOOS

to me personally known and known to me to be the same person as described
in and who executed the within Instrument, and they
acknowledged to me that they executed the same

Albert J. Drake

ALBERT J. DRAKE
NOTARY PUBLIC OF NEW YORK STATE
RESIDING DUTCHESS COUNTY #300
COMMISSION EXPIRES MARCH 30, 1952

Certificate filed in Orange County

A true record entered September 5th 1950 at 1 P. M.

Wm. J. Cruthers
Clerk

rec
10-145

544



FORM 681 M. Y. DEED—Full Covenant with Lien Covenant
(Laws of 1917, Chap. 681, Statutory Form A, Chap. 627 Laws of 1933)

TUTTLEBANK REGISTERED UNPAID
Tuttle Law Print Publishers, Inc.

This Indenture

Made the 30th day of September Nineteen Hundred and

Fifty-seven

Between

DOROTHY PERSKY, residing at 4161 Wilson Avenue

San Diego, California



party of the first part, and

JOSEPHINE AGRESTI, residing at R. D. #4 Lakeside Drive (no number)
Town of New Windsor, State of New York

party of the second part

Witnesseth

that the party of the first part, in consideration
Ten and No/100 Dollars

(\$10.00) lawful money of the United States, and other good and
valuable considerations paid by the party of the second part,

do hereby grant and release unto the party of the second part, her heirs,
and assigns forever, all that lot, piece or parcel

land situate, lying and being in the Town of New Windsor, County of
Orange, State of New York, more particularly bounded and described
follows:

BEGINNING at a point on the easterly shore of Beaver Dam
the said point of beginning is on the westerly boundary line of the
said farm acquired from Anna Johnson, the said point of beginning
South 29°10' West 7.51 feet from the southerly end of a course de-
scribed in the deed of conveyance for the said farm, as South 23°
West 95.00 feet; running thence over and through the said farm the
following three courses namely; (1) South 67°58' East 401.46 feet;
(2) South 13°15' East 40.78 feet along the westerly side of a pri-
vate road which crosses the said farm, (3) North 70°35' West 432.
feet, thence along the westerly boundary line of the said farm, (4)
North 29°10' East 53.36 feet to the point of beginning. Contain-
ing 0.414 acres more or less, and also that lot, piece or parcel of
situate, lying and being in the Town of New Windsor, County of Or-
ange and State of New York and more particularly bounded and describ-
ed follows:

BEGINNING at a point on the easterly shore of Beaver Dam
the said point of beginning is on the westerly boundary line of the
said farm acquired from Anna Johnson, the said point of beginning
South 29°10' West 60.83 feet from the southerly end of a course
boundary line which is described in the deed of conveyance for the
said farm as South 23°58' West 95.00 feet; running thence (1) South
70°35' East 432.13 feet, thence (2) South 5°50' West 51.40 feet
the westerly side of a private road which crosses the said farm ac-
quired from Anna Johnson, thence (3) North 70°35' West 452.75 feet
thence (4) North 29°10' East 50.70 feet, along the said westerly
boundary line of the said farm acquired from Anna Johnson, to the
point of beginning.

Containing 0.508 Acres of land more or less.

mechanical power will be permitted or used thereon, and that said Lake shall not be used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part assume no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that she will not suffer nor permit at any time any advertising signs nor any fowls or other livestock, except a pet, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake-Section I development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake-Section I development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said Lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company, as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purpose, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining said premises to the center line thereof, subject to the rights of the Grantors, their heirs and assigns, to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns, in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South $75^{\circ}15'$ East 522 feet to the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet, along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South $65^{\circ}44'$ East 214.23 feet, over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South $18^{\circ}22'$ East 33 feet, along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South $12^{\circ}30'$ East 68 feet, along the westerly line of the said right of way, to a point thence (5) North $65^{\circ}44'$ West 270 feet more or less, over and through land of the said Cruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

These properties being the same properties deeded to the party of the first part by William J. Cruthers and Charles Boos by deeds dated April 11, 1950, and recorded on the 5th day of September 1950, in Liber 1170 of Deeds at Page 610; and deed dated April 18, 1950, and recorded on the 19th day of May, 1950, in Liber 1158 of Deeds at Page 58.

Together with the appurtenances and all the estate and rights of the part of the first part in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, her heirs and assigns forever.

And said DOROTHY PERSKY

covenant as follows:

First. That said DOROTHY PERSKY is

seized of said premises in fee simple, and has good right to convey the same;

Second. That the party of the second part shall quietly enjoy the said premises;

Third. That the said premises are free from incumbrances; except as hereinabove stated.

Fourth. That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

Fifth. That said DOROTHY PERSKY

will forever **Warrant** the title to said premises.

Sixth. That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set her hand and seal the day and year first above written.

In Presence of

Dorothy Persky L.S.

_____ L.S.

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

LIBER 2144 PAGE 528

THIS INDENTURE, made the 4th day of August, nineteen hundred and seventy nine
BETWEEN FRANK AGRESTI, residing at RD 4 Lakeside Dr. New Windsor,
New York, ALFRED AGRESTI, residing at 408 W. 57th St. Apt 6C
New York, New York, FRANK AGRESTI JR., residing at 433 1/2
Harding Ave. Sacramento, Calif., RAMILDA AGRESTI,
residing at RD 4 Lakeside Dr. New Windsor, New York,
GREGORY AGRESTI, residing at RD 4 Lakeside Dr., New
Windsor, New York,

party of the first part, and

FRANK AGRESTI, residing at RD 4 Lakeside Dr. New Windsor,
New York.

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN and 00/100 and other consideration-----(\$10.00)-----dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the Town of New Windsor, County of Orange, State of New
York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the
said point of beginning is on the westerly boundary line of the said
farm acquired from Anna Johnson, the said point of beginning is South
29°10' West 7.51 feet from the southerly end of a course described in
the deed of conveyance for the said farm, as South 23°58' West 95.00
feet; running thence over and through the said farm the following
three courses namely; (1) South 67°58 1/2' East 401.46 feet, (2) South
13°15 1/2' East 40.78 feet along the westerly side of a private road
which crosses the said farm, (3) North 70°35' West 432.13 feet, then
along the westerly boundary line of the said farm, (4) North 29°10'
East 53.36 feet to the point of beginning. Containing 0.414 acres
more or less, and also that lot, piece or parcel of land situate,
lying and being in the Town of New Windsor, County of Orange and Sta
of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the
said point of beginning is on the westerly boundary line of the sa
farm acquired from Anna Johnson, the said point of beginning is So
29°10' West 60.83 feet from the southerly end of a course in the b
dary line which is described in the deed of conveyance for the sa
farm, as South 23°58' West 95.00 feet; running thence (1) South 70°
East 432.13 feet, thence (2) South 5°50' West 51.40 feet along the
westerly side of a private road which crosses the said farm, acqui
from Anna Johnson, thence (3) North 70°35' West 452.75 feet, then
(4) North 29°10' East 50.70 feet, along the said westerly boundar
line of the said farm acquired from Anna Johnson, to the point of
beginning.

Containing 0.508 acres of land more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake
boating, fishing, recreation and sports insofar as the parties of
first part have the right to grant such use to the party of the
part. It being understood and agreed by the parties hereto that
boats propelled by hand or wind shall be used upon said lake, and
no motor, engines or other mechanical p
shall be used upon said lake.

the use of the streets or of the said lake to the second part. Nothing contained herein and in the instrument to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that he will not suffer nor permit at any time any advertising sign nor any fowls or other livestock, except a pet, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of north line of Beaver Dam Lake-Section I development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake-Section I development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing in said lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purposes, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed road.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue, open or proposed in front of or adjoining said premises to the center line thereof subject to the rights of the Grantors, their heirs and assigns to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75°15' East 522 feet to the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South 65°44' East 214.23 feet over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18°22' East 33 feet along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South 12°30' East 68 feet along the westerly line of the said right of way, to a point thence (5) North 65°44' West 270 feet more or less over and through land of the said Cruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

These properties being the same properties deeded to the party of the first part by William J. Cruthers and Charles Boos on April 11, 1950 and

with all right, title and interest, if any, of the party of the first part in and to any roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, th successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the the first part will receive the consideration for this conveyance and will hold the right to receive suc eration as a trust fund to be applied first for the purpose of paying the cost of the improvement and v the same first to the payment of the cost of the improvement before using any part of the total of the any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year fi written.

IN PRESENCE OF:

Ella M. Ruvo

Frank Agresti
FRANK AGRESTI

Alfred Agresti
ALFRED AGRESTI

Frank Agresti Jr.
FRANK AGRESTI JR.

Ramilda Agresti
RAMILDA AGRESTI

Gregory Agresti
GREGORY AGRESTI

RIDER TO DEED FRANK AGRESTI, ALFRED AGRESTI, FRANK AGRESTI JR., RAMIL
AGREST AND GREGORY AGRESTI TO FRANK AGRESTI.

LIBER 2144 PAGE 530 Being and intended to be the same premises as conveyed to Josephine /
by Dorothy Persky by deed dated September 30, 1957 and recorded in the
County Clerk's office on October 14, 1957 in Liber 1442 of Deeds at 1
544.

LIBER 2144 PAGE 530 Josephine Agresti died Intestate on May 21, 1969 leaving as her sole
distributees her husband Frank Agresti and her four (4) children, Al
Agresti, Frank Agresti Jr., Ramilda Agresti and Gregory Agresti,
the grantors herein. It is the intent of the five (5) aforesaid parties
to convey all their right, title and interest in the above described
property to Frank Agresti.

NO TAX
STAMPS

NO TAX
STAMPS

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

LIBER 2144 PAGE 528

THIS INDENTURE, made the 4th day of August, nineteen hundred and seventy nine
BETWEEN FRANK AGRESTI, residing at RD 4 Lakeside Dr. New Windsor,
New York, ALFRED AGRESTI, residing at 408 W. 57th St. Apt 6C
New York, New York, FRANK AGRESTI JR., residing at 433 1/2
Harding Ave. Sacramento, Calif., RAHILDA AGRESTI,
residing at RD 4 Lakeside Dr. New Windsor, New York,
GREGORY AGRESTI, residing at RD 4 Lakeside Dr., New
Windsor, New York,

party of the first part, and

FRANK AGRESTI, residing at RD 4 Lakeside Dr. New Windsor,
New York.

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN and 00/100 and other consideration-----(\$10.00)-----dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, County of Orange, State of New
York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the
said point of beginning is on the westerly boundary line of the said
farm acquired from Anna Johnson, the said point of beginning is South
29°10' West 7.51 feet from the southerly end of a course described in
the deed of conveyance for the said farm, as South 23°58' West 95.00
feet; running thence over and through the said farm the following
three courses namely; (1) South 67°58 1/2' East 401.46 feet, (2) South
13°15 1/2' East 40.78 feet along the westerly side of a private road
which crosses the said farm, (3) North 70°35' West 432.13 feet, thence
along the westerly boundary line of the said farm, (4) North 29°10' E
East 53.36 feet to the point of beginning. Containing 0.414 acres
more or less, and also that lot, piece or parcel of land situate,
lying and being in the Town of New Windsor, County of Orange and State
of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver DAM Lake, the
said point of beginning is on the westerly boundary line of the said
farm acquired from Anna Johnson, the said point of beginning is South
29°10' West 60.83 feet from the southerly end of a course in the bound-
ary line which is described in the deed of conveyance for the said
farm, as South 23°58' West 95.00 feet; running thence (1) South 70°35'
East 432.13 feet, thence (2) South 5°50' West 51.40 feet along the
westerly side of a private road which crosses the said farm acquired
from Anna Johnson, thence (3) North 70°35' West 452.75 feet, thence
(4) North 29°10' East 50.70 feet, along the said westerly boundary
line of the said farm acquired from Anna Johnson, to the point of
beginning.

Containing 0.508 acres of land more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake for
boating, fishing, recreation and sports insofar as the parties of the
first part have the right to grant such use to the party of the second
part. It being understood and agreed by the parties hereto that only
boats propelled by hand or wind shall be used upon said lake, and
that no boats propelled by motors, engines or other mechanical power
will be permitted or used thereon, and that said lake shall not be

used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part ass no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agree that he will not suffer nor permit at any time any advertising sign nor any fowls or other livestock, except a pet, nor any noxious or noisome, or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of north line of Beaver Dam Lake-Section I development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake-Section I development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing in said lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel boarding house, nor for any other commercial purposes, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed road

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the at described proposed roads.

Together with all the right title and interest of the sellers of, in to any land lying in the bed of any street, road or avenue, open or proposed in front of or adjoining said premises to the center line thereof subject to the rights of the Grantors, their heirs and assigns to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns in and that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the s. point of beginning is at the easterly end of a course described as South 75°15' East 522 feet to the boundary line description in the d. of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet along the easterly shore of the said lake, to an iron pin driven into the ground, thence (2) South 65°44' East 214.23 feet over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18°22' East 33 feet along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South 12°30' East 68 feet along the westerly line of the said right of way, to a point thence (5) North 65°44' West 270 feet more or less over and through land of the said Cruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

These properties being the same properties deeded to the party of the first part by William J. Cruthers and Charles Boos by deeds dated April 11, 1950 and recorded on the 5th day of September 1950 in Liber 1170 of Deeds at page 610; and deed dated April 18, 1950 and recorded on the 19th day of May 1950 in Liber 1158 of Deeds at page 62

ENC 2144 PAGE 529

AGREST AND GREGORY AGRESTI TO FRANK AGRESTI.

Being and intended to be the same premises as conveyed to Josephine Agresti by Dorothy Persky by deed dated September 30, 1957 and recorded in the Orange County Clerk's office on October 14, 1957 in Liber 1442 of Deeds at page 544.

Josephine Agresti died Intestate on May 21, 1969 leaving as her sole distributees her husband Frank Agresti and her four (4) children, Alfred Agresti, Frank Agresti Jr., Ramilda Agresti and Gregory Agresti, the grantors herein. It is the intent of the five (5) aforesaid persons to convey all their right, title and interest in the above described property to Frank Agresti.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.
IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above

written.

IN PRESENCE OF:

Ella M. Rives

Frank Agresti
FRANK AGRESTI
Alfred Agresti
ALFRED AGRESTI
Frank Agresti Jr.
FRANK AGRESTI JR.
Ramilda Agresti
RAMILDA AGRESTI
Gregory Agresti
GREGORY AGRESTI

STATE OF NEW YORK, COUNTY OF ORANGE

On the 4th day of August 1979, before me personally came

Frank Agresti

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

*Elia M. Larocca*ELIA M. LARocca
Notary Public of the State of New York
Residing in & for Orange County
My Commission Expires March 30, 1982

STATE OF NEW YORK, COUNTY OF

On the day of personally came 19

LIBER 2144 PAGE 532

to me known to be the individual described executed the foregoing instrument, and acknowledged the same.

STATE OF NEW YORK
COUNTY OF ORANGE } ss.:On the 4th day of Aug. 1979, before me personally, ALFRED AGRESTI, to me known to be the individual described in and executed the foregoing instrument and acknowledged that he executed the same.*Elia M. Larocca*
Notary PublicSTATE OF CALIFORNIA
COUNTY OF Sacramento } ss.:On the 17th day of August 1979, before me personally, FRANK AGRESTI JR., to me known to be the individual described in and executed the foregoing instrument and acknowledged that he executed the same.ELIA M. LARocca
Notary Public of the State of New York
Residing in & for Orange County
My Commission Expires March 30, 1982*Elia M. Larocca*
Notary PublicSTATE OF NEW YORK
COUNTY OF ORANGE } ss.:On the 4th day of Aug. 1979 before me personally came GREGORY AGRESTI to me known to be the individual described in and who executed the foregoing instrument and acknowledged that he executed the same.*Elia M. Larocca*
Notary PublicELIA M. LARocca
Notary Public of the State of New York
Residing in & for Orange County
My Commission Expires March 30, 1982

CAVALARI AND LARocca, P.C. - COUNSELLORS AT LAW - P.O. BOX 2700, ALBANY, N.Y. 12212

Bargain and Sale Deed
With COVENANT AGAINST GRANTOR'S ACTS
Title No.

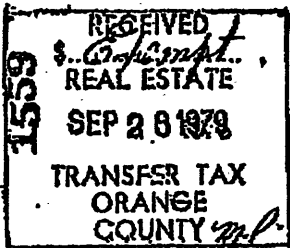
TO

SECTION
BLOCK
LOT
COUNTY OR TOWN

RETURN BY MAIL TO:

Genevieve V. Johnson P.C.
P.O. Box 576
Udels State, N.Y. 12584
Zip No.

Reserve this space for use of Recording Office.



LIBER 2144 PAGE 533

Orange County Clerk's Office, s.s.

Recorded on the 26th day
of Sept, 19 79 at 9:52
o'clock A.M. in Liber 2144
Deeds at page 533
and Examined.

Jack A. Schless
Clerk

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

(This Page is Part of the Instrument)

CELIA AGRESTI, Executrix
of the Estate of FRANK AGRESTI
TO
RAMILDA AGRESTI, ALFRED AGRESTI
FRANK AGRESTI, JR. &
GREGORY AGRESTI

SECTION 40 BLOCK 1 LOT 4

RECORD AND RETURN TO:

DINARDO & GILMARTIN, ESQS.
P.O. BOX 1000
90 EAST MAIN STREET
WASHINGTONVILLE, NEW YORK 10992

CONTROL NO. 054743 DATE 2/23/87 CHECK _____ CASH _____ CHARGE ☒
INSTRUMENT TYPE: DEED ☒ MORTGAGE _____ SATISFACTION _____ ASSIGNMENT _____ OTHER _____

BG20 Blooming Grove _____
CH22 Choster _____
CO24 Cornwall _____
CR26 Crawford _____
DP28 Deerpark _____
GO30 Goshen _____
GR32 Grassville _____
HA34 Hamptonburgh _____
HI38 Highland _____
MK38 Minisink _____
ME40 Monroe _____
MY42 Montgomery _____
MH44 Mount Hope _____
NT48 Newburgh (T) _____
NW48 New Windsor ☒
TU50 Tuxedo _____
WL52 Wallkill _____
WK54 Warwick _____
WA58 Wawayanda _____
WO58 Woodbury _____

MN09 Middletown _____
NC11 Newburgh _____
PJ13 Port Jervis _____
9999 Hold _____

RECEIVED
\$ Exempt
REAL ESTATE
TRANSFER TAX
ORANGE COUNTY
Tex

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on the 7th day of April 1987 at 9:01
O'Clock A M. in Liber 2687 and examined.
at page 131

Marion S. Murphy
County Clerk

Mortgage Amount _____
Exempt Yes _____ No _____

Received Tax on above Mortgage

Basic \$ _____
MTA \$ _____
Spec. Add. \$ _____
TOTAL \$ _____

MARION S. MURPHY
Orange County Clerk

by: _____

MORTGAGE TAX \$ _____
TRANSFER TAX \$ E
SERIAL NO. _____
RECORD. FEE \$ 20.-
REPORT FORMS \$ 5.-
CERT. COPIES \$ _____

LEAF 2689 PG 131

A 209

County's Book—Individual or Corporation, N.Y.S.T.U. Form 901a.

DATE CODE

JULIANE HANSEN, INC., LAW FIRM, FARMINGTON

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 28 day of February, nineteen hundred and Eighty-Seven

BETWEEN

CELIA AGRESTI, residing at 245 E. 19th Street, New York,
New York, Executrix

Administrator of

the last will and testament of
late of

FRANK AGRESTI

RD 4, Lakeside Drive, New Windsor, New York
who died on the 21st day of May, nineteen hundred and Eighty-three
party of the first part, andRAMILDA AGRESTI residing at RD4, Lakeside Drive, New Windsor, New York,
ALFRED AGRESTI, residing at 408 W. 57th Street, Apt 6C, New York, New York,
FRANK AGRESTI, JR., residing at 433 1/2 Harding Avenue, Sacramento, California and
GREGORY AGRESTI, residing at RD4, Lakeside Drive, New Windsor, New York.

party of the second part,

WITNESSETH, that the party of the first part, to whom letters
testamentary were issued by the Surrogate's Court, Orange County, New York
on October 17, 1985 and by virtue of the power and authority given in and by said last will
and testament, and/or by Article 11 of the Estates, Powers and Trusts Law, and in consideration of

TEN

dollars,

paid by the party of the second part, does hereby grant and
release unto the party of the second part, the distributees or successors and assigns of the party of the second
part forever,ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in theTown of New Windsor, County of Orange, State of New
York, more particularly bounded and described as
follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake; the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson; the said point of beginning is South 29 degrees 10' West 7.51 feet from the southerly end of a course described in the deed of conveyance for the said farm, as South 23 degrees 58' West 95.00 feet; running thence over and through the said farm the following three courses namely (1) South 47 degrees 58 1/2' East 401.46 feet; (2) South 13 degrees 15 1/2' East 40.78 feet along the westerly side of a private road which crosses the said farm; (3) North 70 degrees 35' West 432.13 feet, thence along the westerly boundary line of the said farm; (4) North 29 degrees 10' East 53.36 feet to the point of beginning. Containing 0.414 acres more or less, and also that lot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake; the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson; the said point of beginning is South 29 degrees 10' West 40.63 feet from the southerly end of a course in the boundary line which is described in the deed of conveyance for the said farm as South 23 degrees 58' West 95.00 feet; running thence (1) South 70 degrees 35' East 432.13 feet; thence (2) South 5 degrees 50' West 51.40 feet along the westerly side of a private road which crosses the said farm acquired from Anna Johnson

JUL 28 1989 PG 132

thence (3) North 70 degrees 35' West 452.75 feet,
thence (4) North 29 degrees 10' East 50.70 feet, along
the said westerly boundary line of the said farm
acquired from Anna Johnson, to the point of beginning.

Containing 0.508 acres of land more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake for boating, fishing, recreation and sports insofar as the parties of the first part have the right to grant such use to the party of the second part. It being understood and agreed by the parties hereto that only boats propelled by hand or wind shall be used upon said lake, and that no boats propelled by motors, engines or other mechanical power will be permitted or used thereon, and that said lake shall not be used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part assume no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that he will not suffer nor permit at any time any advertising signs nor any fowls or other livestock, except a pet, nor any noxious or noisome or other objectionable things, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section 1 development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section 1 development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purposes, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue, open or proposed in front of or adjoining said premises to the center line thereof subject to the rights of the Grantors, their heirs and assigns to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

133

9142943530

AGRESTI DESCRIPTION CONTINUED

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that place or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75 degrees 15' East 522 feet to the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet along the easterly shore of the said lake, to an iron pipe driven into the ground; thence (2) South 65 degrees 44' East 214.23 feet over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground; thence (3) South 18 degrees 22' East 33 feet along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed; thence (4) South 12 degrees 30' East 68 feet along the westerly line of the said right of way; to a point thence (5) North 65 degrees 44' West 270 feet more or less over and through land of the said Cruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

Being and intended to be the same premises as conveyed to Josephine Agresti by Dorothy Persky by deed dated

September 30, 1957 and recorded in the Orange County Clerk's Office on October 14, 1957 in Liber 1442 of Deeds at page 544. Said Josephine Agresti having died Intestate on May 21, 1969.

These properties being the same properties deeded by Frank Agresti, Alfred Agresti, Frank Agresti, Jr., Ramilda Agresti and Gregory Agresti to Frank Agresti by Deed dated August 4, 1979 and recorded in the Orange County Clerk's Office on September 26, 1979 at Liber of Deeds 2144 at page 528.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein, which the party of the first part has or has power to convey or dispose of, whether individually, or by virtue of said will or otherwise,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the distributees or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Celia Agresti
CELIA AGRESTI, Executrix of the
Estate of FRANK AGRESTI

SUBSCRIBED TO BEFORE ME

THIS 23RD DAY OF FEBRUARY 1987.

John H. DePietro
JOHN H. DEPIETRO
Notary Public, State of New York
No. 31-488458
Commission Expires March 30, 1988

2050 PG 135

STATE OF NEW YORK, COUNTY OF ORANGE

On the 25th day of February 1987, before me personally came CELIA AGRESTI, Executrix of the Estate of Frank Agresti,

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

Celia Agresti

*Sworn to before me
THIS 28th Day of February, 1987*

John D. De Pretis

JOHN G. DE PRETIS
Notary Public in and for the State of New York
No. 31-4856150
City of New York, County of Orange
Commission Expires March 30, 1988

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

On the day of 19, before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Executor's Deed

TITLE No.

ESTATE OF FRANK
AGRESTI

TO
AGRESTIS

SECTION

BLOCK

LOT

COUNTY OR TOWN

Recorded At Request of

RETURN BY MAIL TO:

DINARDO & GILMARTIN, ESQS.
90 EAST 42ND STREET
P.O. Box 11000
WASHINGTONVILLE, NEW YORK 10992
Zip No.

EX-2859 PG 156

ALSO IN THIS SPACE FOR USE OF RECORDING OFFICE

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

(This Page is Part of the Instrument)

PRINT ON TYPE BLACK INK ONLY

RAMILDA AGRESTI, ALFRED AGRESTI,
FRANK AGRESTI, JR. & GREGORY
AGRESTI TO
GREGORY AGRESTI & RAMONA AGRESTI

89BE 62944

RECORD AND RETURN TO:
(Name and Address)

BRIAN G. GILMARTIN, ESQ.
90 East Main Street
P.O. Box 1000
Washingtonville, New York 10992

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 053133 DATE 7-2-88 AFFIDAVIT FILED 19

INSTRUMENT TYPE: DEED ☒ MORTGAGE ☐ SATISFACTION ☐ ASSIGNMENT ☐ OTHER ☐

BG20 Blooming Grove
CH22 Chester
CO24 Cornwall
CR26 Crawford
DP28 Deerpark
GO30 Goshen
GR32 Greenville
HA34 Hamptonburgh
HI36 Highland
MK38 Minisink
ME40 Monroe
MY42 Montgomery
MH44 Mount Hope
NT46 Newburgh (T)
NW48 New Windsor
TU50 Tuxedo
WL52 Wallkill
WK54 Warwick
WA56 Wawayanda
WO58 Woodbury
MN09 Middletown
NC11 Newburgh
PJ13 Port Jervis
9999 Hold

SERIAL NO. _____

Mortgage Amount \$ _____

CHECK ☒ CASH ☐ CHARGE ☐

Exempt Yes ☐ No ☐

MORTGAGE TAX \$ _____

3-6 Cooking Units Yes ☐ No ☐

TRANSFER TAX \$ Nil

Received Tax on above Mortgage

Basic \$ _____

MTA \$ _____

RECORD. FEE \$ 20-

Spec. Add. \$ _____

REPORT FORMS \$ 5-

TOTAL \$ _____

CERT. COPIES \$ _____

MARION S. MURPHY
Orange County Clerk

by: _____

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on the 11th day of July

at 9:55 O'clock A.M. M. in Liber/Film 2909

page 329 and examined

Marion S. Murphy

County Clerk

RECEIVED

\$ 246.00

REAL ESTATE

MAR 11 1988

TRANSFER TAX

ORANGE COUNTY

2504 PG 329

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the ²² day of *March* nineteen hundred and Eighty-eight, BETWEEN RAMILDA AGRESTI, residing at R.D. #2, Box 37, Clove Road, Monroe, New York, ALFRED AGRESTI, residing at 406 W. 37th Street, New York, New York, FRANK AGRESTI, JR., residing at 4773 18th Street, San Francisco, California, and GREGORY AGRESTI, residing at Box 383, Lakeside Drive, New Windsor, New York,

party of the first part, and GREGORY R. AGRESTI and RAMONA K. AGRESTI, both residing at Box 383, Lakeside Drive, New Windsor, New York 12550, husband and wife, as tenants by the entirety,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

One - - - - - (\$1.00 & c.) dollars,

lawful money of the United States, and other good and valuable consideration paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson, the said point of beginning is South 29 degrees 10' West 7.51 feet from the southerly end of a course described in the deed of conveyance for the said farm as South 23 degrees 58' West 95.00 feet; running thence over and through the said farm the following three courses namely: (1) South 67 degrees 58 1/2' East 401.46 feet, (2) South 13 degrees 15 1/2' East 40.78 feet along the westerly side of a private road which crosses the said farm, (3) North 70 degrees 35' West 432.13 feet, thence along the westerly boundary line of the said farm, (4) North 29 degrees 10' East 53.36 feet to the point of beginning. Containing 0.414 acres more or less, and also that lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange and State of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is on the westerly boundary line of the said farm acquired from Anna Johnson, the said point of beginning is South 29 degrees 10' West 60.83 feet from the southerly end of a course in the boundary line which is described in the deed of conveyance for the said farm as South 23 degrees 58' West 95.00 feet; running thence (1) South 70 degrees 35' East 432.13 feet, thence (2) South 5 degrees 50' West 51.40 feet along the westerly side of a private road which crosses the said farm acquired from Anna Johnson, thence (3) North 70 degrees 35' West 452.75 feet, thence (4) North 29 degrees 10' East 50.70 feet, along the said westerly boundary line of the said farm acquired from Anna Johnson, to the point of beginning.

Containing 0.508 acres of land more or less.

TOWN OF NEW WINDSOR
60-1-4

2804 pg 350

The purchaser is hereby granted the right to use Beaver Dam Lake for boating, fishing, recreation and sports insofar as the parties of the first part have the right to grant such use to the party of the second part. It being understood and agreed by the parties hereto that only boats propelled by hand or wind shall be used upon said lake, and that no boats propelled by motors, engines, or other mechanical power will be permitted or used thereon, and that said lake shall not be used for any business purposes whatsoever. It is understood and agreed by the parties hereto that the parties of the first part assume no liability for damages or injuries to persons or property by reason of their grant of the use of the streets or of the said Lake to the party of the second part. Nothing contained herein and in the instruments to be delivered in consummation of this agreement shall be construed as impairing the right of the sellers to maintain the dam at the south end of the lake at its present level, nor to impose any obligation on them to maintain such dam.

And the party of the second part hereby further covenants and agrees that he will not suffer nor permit at any time any advertising signs nor any fowls or other livestock, except a pet, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake Section I development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake Section I development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said lake.

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established, or of record, if any there be.

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purposes, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right, title and interest of the sellers of, in and to any land lying in the bed of any street, road, or avenue, open or proposed in front of or adjoining said premises to the center line thereof subject to the rights of the Grantors, their heirs and assigns to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns in and to that parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows: All that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75 degrees 15' East 522 feet to the boundary line description in the deed of conveyance given to William J. Cruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South 65 degrees 44' East 214.23 feet over and through land of the said Cruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18 degrees 22' East 33 feet along the westerly line of a right of way 50 feet in width, within the bounds of which the said Cruthers and Boos have had a road constructed, thence (4) South 12 degrees 30' East 68 feet along the westerly line of the said right of way, to a point thence (5) North 65 degrees 44' West 270 feet more or less over and through land of the said Cruthers and Boos, to the point of beginning. Containing 0.55 acres of land more or less.

BEING the same premises described in a deed from Celia Agresti, as Executrix under the Last Will and Testament of Frank Agresti, deceased, to Ramilda Agresti, Alfred Agresti, Frank Agresti, Jr. and Gregory Agresti, dated February 28, 1987, and recorded in the Orange County Clerk's Office on April 7, 1987, in Liber 2689 of Deeds, at page 131.

BEING AND INTENDED TO BE the same premises described in a survey made by Zimmerman Engineering & Surveying, P.C., dated July 30, 1987, as follows:

Beginning at a point on the westerly line of Lakeside Road, said point being an iron pipe set on the southern most corner of the herein described lot and the northeasterly corner of lands N/P David (L. 2262, P. 506);

Thence North 70 degrees 35 minutes 00 seconds West a distance of 452.75 to a point;

Thence North 29 degrees 10 minutes 00 seconds East a distance of 104.06 to a point;

Thence South 67 degrees 58 minutes 30 seconds East a distance of 401.46 to a point;

Thence South 13 degrees 15 minutes 30 seconds East a distance of 40.78 to a point;

Thence South 05 degrees 50 minutes 00 seconds West a distance of 51.40 feet to the POINT OF BEGINNING, and containing 40149.0758 square feet or 0.9220 acres of land, more or less.

TOWN OF NEW WINDSOR
60-1-4

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Ramilda Agresti
RAMILDA AGRESTI

Alfred Agresti
ALFRED AGRESTI

Frank Agresti, Jr.
FRANK AGRESTI, JR.

Gregory Agresti
GREGORY AGRESTI

LAG 2804 76 333

STATE OF California, COUNTY OF SAN FRANCISCO

On the 2 day of February 1988, before me personally came

FRANK AGRESTI, JR.,

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.



OFFICIAL SEAL
M. GAMBOA
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
My Comm. Expires OCT 14, 1988

23rd Street, San Francisco, CA 94110-3059

Notary Public
State of California
Qualified San Francisco County
Commission expires:

STATE OF NEW YORK, COUNTY OF NEW YORK

On the 29 day of February 1988, before me personally came

ALFRED AGRESTI

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Curtis J. Forbes

CURTIS J. FORBES

Notary Public, State of New York
No 03-4732548

Qualified in Bronx County,
Commission Expires March 30, 1989

STATE OF NEW YORK, COUNTY OF Orange

On the 2 day of March 1988, before me personally came Gregory R. Agresti, to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the independent dependent of the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.



OFFICIAL SEAL
M. GAMBOA
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO COUNTY
My Comm. Expires OCT 14, 1988

3337 - 23rd Street, San Francisco, CA 94110-3059

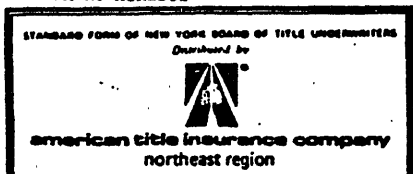
Brian G. Gilmartin
BRIAN G. GILMARTIN
NOTARY PUBLIC, State of New York
No. 02614735383
Qualified in Orange County
Commission Expires March 30, 1989

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

Title No

RAMILDA AGRESTI, ALFRED AGRESTI,
FRANK AGRESTI, JR. and GREGORY AGRESTI

TO
GREGORY R. AGRESTI and
ROMONA K. AGRESTI



A Member of The Continental Insurance Companies

SECTION 60

BLOCK 1

LOT 4

COUNTY OR TOWN Town of New Windsor

Recorded At Request of American Title Insurance Company

RETURN BY MAIL TO:

Brian G. Gilmartin, Esq.
90 East Main Street, P.O. Box 1000
Washingtonville, New York 10992

2c No.

ALWAYS THIS SPACE FOR USE OF RECORDING OFFICE

2504 76 334

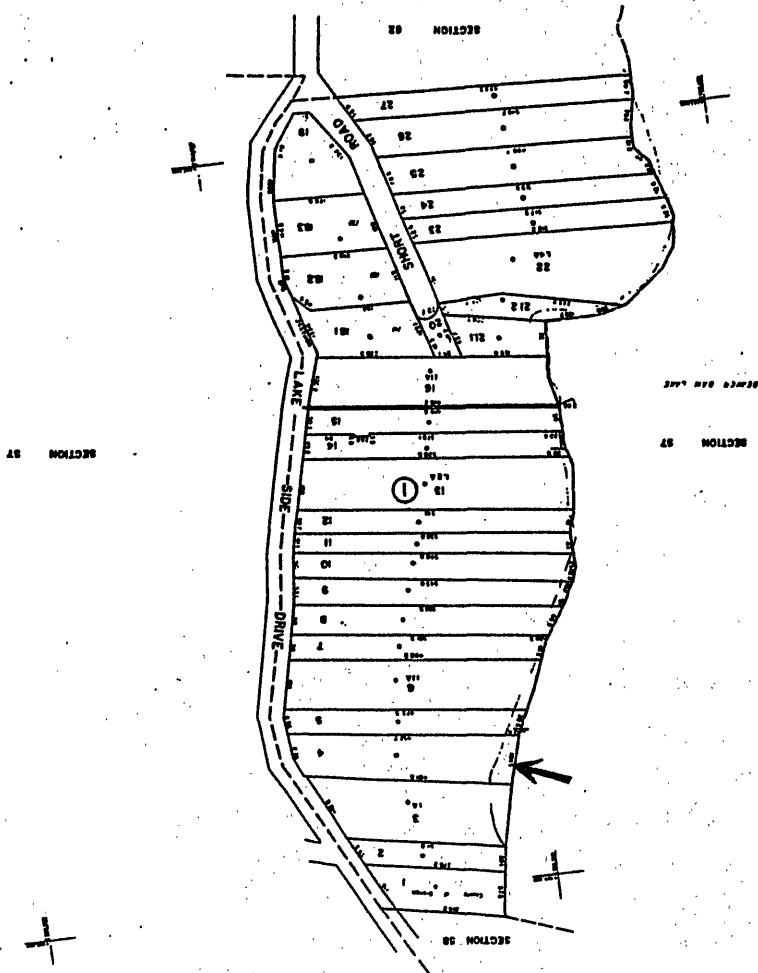
00.	(789 00)		
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ON 102

WINDY HILLS LINGER, FORMING

11-23-51 4-30 30 11501

ADMINISTRATIVE ATTACHMENT 12

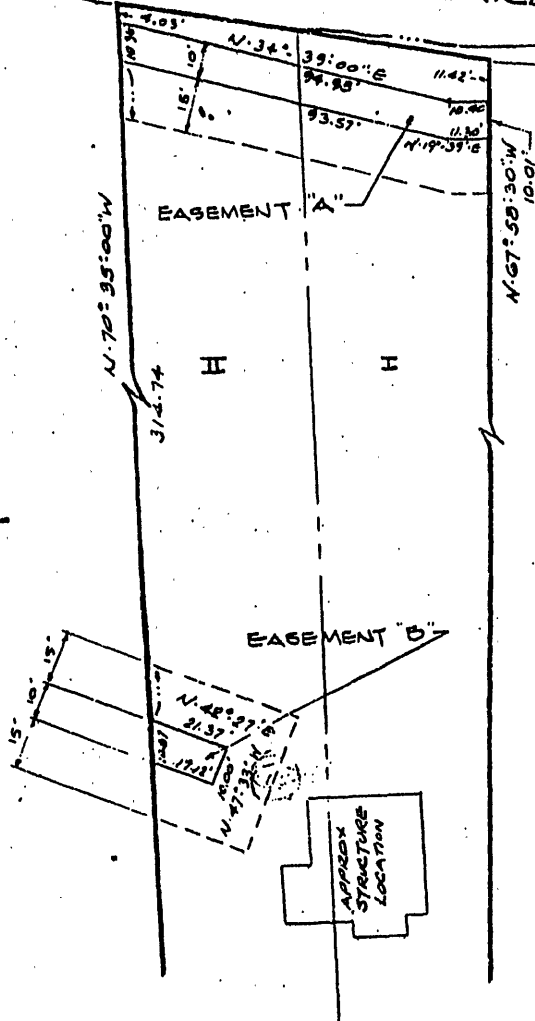


FIELD SURVEY OF PROPOSED SEWER ALIGNMENT, LOCATION OF AVAILABLE BOUNDARY EVIDENCE, DEED INFORMATION. THE PROPERTY AS SHOWN IS FROM DEED INFORMATION AND THE DIMENSIONS THEREOF ARE NOT TO BE CONSTRUED AS A PROPERTY SURVEY OF THAT PARCEL.



BEAVER DAM LAKE

N/A
PEROSI
60-1-5



N/A
WOODS
60-1-3

UNAUTHORIZED ALTERATIONS OR ADDITIONS TO THIS MAP ARE A VIOLATION OF SECTION 7203, SUB-SECTION 2, OF THE N. Y. STATE EDUCATION LAW.

Fred L. Wehran, Jr.
3/10/81
FRED L. WEHRAN, JR., N.Y.S. LIC. NO. 49067 Date

LEGEND

- PROPERTY LINE
- PERMANENT EASEMENT
- TEMPORARY CONSTRUCTION EASEMENT

TAX MAP: SECTION 60, BLOCK 1, LOT 4
DEED: LIBER 2122, PAGE 525

MAP OF
LANDS OF FRANK AGRESTI
FOR
EASEMENT ACQUISITION
SANITARY SEWER DISTRICT NO. 23
TOWN OF NEW WINDSOR, ORANGE COUNTY, N.Y.

SURVEYED PA
DESIGNED RR
DRAWN JR
CHECKED RR

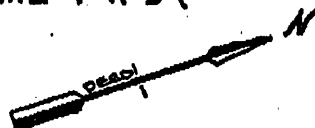
WE WEHRAN ENGINEERING
CONSULTING ENGINEERS

SCALE 1" = 40'
DATE MAR 1981
BY APRIL 1981
PROJ. NO. 01229104

ZIMMERMAN ENGINEERING & SURVEYING P.C.
RTE. 17M HARRIMAN, N.Y.
JOB NUMBER: 87-79

SCALE: 1" = 50'

DATE: 7-11-94



BEAVER DAM LAKE

104.06'
N 29° 40' 00" E

50.70'

53.36'

PARCEL I
A=0.508 AC.

PARCEL II
A=0.414 AC.

(CREATED BY
CROTHERS &
BROS TO FERRY
APRIL 18, 1930
L.1158 P.50)

(CREATED BY
CROTHERS &
BROS TO FERRY
AUGUST 11, 1930
L.1158 P.610)

TAX MAP NO.

SECTION: 60
BLOCK: 1
LOT: 4

DEED REF

LIBER 2689
PAGE 132

AREA

PARCEL I = 0.414 AC.
PARCEL II = 0.508 AC.
TOTAL = 0.922 AC.

DEED PLOT -
FOR

QUALITY BUILDERS OF
THE COUNTY OF ORANGE, INC.
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

CERTIFIED TRUE & CORRECT
TO:

GREGORY R. AGRESTI
ROMANA K. AGRESTI
UNITED NORTHERN FEDERAL SAVINGS BANK
LAWYERS TITLE INSURANCE
CORPORATION

S 60-81-1-L-5
N 1/2 DAVID
L.2262 P.506

N 70° 35' 00" W 452.75

N 70° 35' 00" W

432.13'

S 67° 58' 30" E 401.46
S 60-81-1-L-3
N 1/2 BAJUSHI
L.2306 P.452

51.40
S 08° 50' 00" E 40.78
S 12° 15' 30" E

LAKE SIDE DRIVE

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK

-----X
In the Matter of the Application of

GREGORY AND RAMONA AGRESTI

AFFIDAVIT

NO. 94-13

for an Interpretation of the Zoning Law
of the Town of New Windsor and
for Variances from the Area Requirements.

-----X
STATE OF NEW YORK}
 .ss}
COUNTY OF ORANGE}

RAMILDA NEWELL, being duly sworn, deposes and says as follows:

1. I reside at 55 Hillside Trail in the Town of Blooming Grove, Orange County, New York.
2. I am the daughter of Frank and Josephine Agresti. The basis of the statements made in this affidavit is my personal knowledge and family records.
3. In April of 1950, Dorothy Persky acquired a building lot (shown as Lot II on the plan prepared by Zimmerman Engineering) in the Beaver Dam Lake area from Cruthers and Boos. In August of that year, Persky acquired another lot from Cruthers and Boos (Lot I).
4. In September, 1957 my mother acquired both parcels from Persky in a single deed. That deed designated each building lot as a separate and distinct parcel.
5. My family and I moved into the single family house that Mrs. Persky had built on Lot I (my brother and his family presently live in that house).
6. At that time, Lot II was improved with a smaller single family bungalow-type residence.
7. The bungalow was rented by my mother to my uncle and aunt, Joseph and Kitty Agresti, between 1957 and 1960.

8. In 1960, my mother rented the larger single family house on Lot I to the Dam family, and I moved, with our family, into the bungalow on Lot II.

9. When my mother acquired these lots, she intended to continue their use as separate and distinct properties.

10. At the time she bought these lots, my mother did not have a survey done, and we were consequently unaware that the house on Lot I encroached slightly onto Lot II.

11. As I mentioned, I lived in both of these houses and can attest to the fact that they were considered separate residential lots.

12. Each house had a separate and distinct yard, bounded towards the lake by a tree line. Each house had its own driveway and septic field.

13. When the bungalow was destroyed by fire in 1963, we moved back into the house on Lot I.

14. At that time, my mother suffered from cancer, and the cost of medical treatments made it impossible for us to reconstruct the bungalow.

15. When we acquired the property, my mother received individual tax assessments for the lots (as an example, I have attached the 1958 tax bill which shows the separate amounts of property tax assessed on each lot).

16. At some point, the assessor's office began sending us a consolidated bill, apparently for purposes of their convenience.

17. However, I know that it was never my mother's intention to combine those lots or otherwise have them treated as a single parcel.

18. Following my mother's death in 1969, both lots were transferred to my father Frank Agresti, by means of a single deed.

19. They were then transferred in 1987 to myself and the other children.

20. Although these transfers were accomplished by a single deed, we insisted that the individual descriptions be retained because we did not wish to combine the lots.

21. Since our family acquired these properties, we have always thought of them as two separate and distinct lots, each associated with the residence on it.

22. For instance, when we first moved into the house on Lot I, we considered the yard for Lot II as my aunt and uncle's yard. Similarly, we never played in the yard for Lot 1 while the Dams lived there because it was "their" yard.

23. My parents, as well as myself and my siblings, always intended to preserve Lot II as a separate lot where a house could again be constructed.

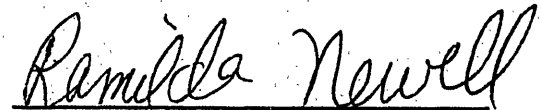
24. On this basis, I find it inconceivable that anyone would question that these lots are separate and distinct lots.

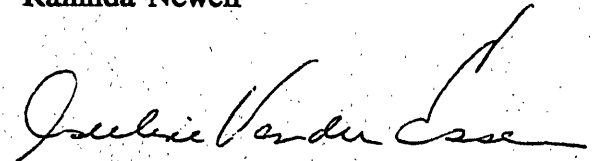
25. Moreover, I would like to point out these lots were typical of the size and dimensions found in the neighborhood, and that many lots of the size of Lot II have had residences constructed on them.

26. On inspection of the residences around the Lake, I believe it would be clear that these lots are characteristic of the typical lots sold in the subdivisions undertaken during this era.

27. Therefore, I believe it is apparent that approval of my brother's request for recognition that Lot II has been a separate building lot since 1950 would not have any adverse impact upon the existing neighborhood character.

Dated: June 23, 1994


Ramilda Newell



ADELINE VANDERESSEN
NOTARY PUBLIC, STATE OF NEW YORK
RESIDING IN ORANGE COUNTY
COMMISSION EXPIRES JULY 19, 1995

33362-01

Pursuant to Section 69-c of the Tax Law you are advised that the total amount of local assistance estimated to be received from the State of New York by the Town of New Windsor, during the fiscal year ending December 31, 1958, is \$43,234.50.

The total amount of local assistance estimated to be received from the State of New York by the County of Orange during the county fiscal year ending December 31, 1958, is \$1,435,000.00.

[illegible]

ASSESSMENT ROLL OF THE TOWN OF NEW WINDSOR, County of Orange, for 1957, upon which the above Assessment and Tax appears was delivered to me on the 22nd day of December, 1957.

Received Payment from

№ 2028

Dated

1958

Collector

7/11/94

Public Hearing : Agresti, Ramona

Name :

Address :

Mark Wiedman

74 Lakeside Dr.

Theresa Hauwinski

58 Lakeside Dr.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

37

June 15, 1994

Mr. & Mrs. Gregory & Ramona Agresti
59 Lakeside Dr.
New Windsor, NY 12553

RE: Tax Map Parcel: 60-1-4 Variance List

Dear Mr. & Mrs. Agresti:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,

Leslie Cook /cd

LESLIE, COOK
Sole Assessor

LC/cd
Attachments

CC: ~~Patricia Bianchini~~

Co. Of Orange F/B/O
Beaver Dam Lake Protection &
Rehabilitation Dist.
265 Main St.
Goshen, NY 10924

Corso, Dona Marie (FKA Peckham)
30 N. Canton RD
W. Simsbury, CT 06092

Bajushi, Daut
PO Box 246
Hackensack, NJ 07602

Pearson, Alan A.
55 Lakeside Dr.
New Windsor, NY 12553

Vincent, Anthony & Vitsentzos, Maria L.
53 Lakeside Dr.
New Windsor, NY 12553

Swider, Edward & Joan
RD4 Box 380
Lakeside, Dr.
New Windsor, NY 12553

Anderson, Robert & Joan
47 Lakeside Drive
New Windsor, NY 12553

Nolte, William & Golden, Kevin
Apt. 3C - 70 Park Terrace East
New York, NY 10034

Hirsch, Douglas
Lakeside Drive
New Windsor, NY 12553

Llanusa, Cecelia
PO Box 182
Salisbury Mills, NY 12577

Greeney, Adele T.
PO Box 98
Salisbury Mills, NY 12577

Nimoni, Xhavid
247 W. 87th St.
New York, NY 10024

Mycka, Richard & Jean
Box 414 Lakeside Dr.
New Windsor, NY 12553

Lovano, Joseph S. & Silverman, Judith
66 Beaver Brook Rd.
New Windsor, NY 12553

Sardullo, Wayne & Charlene
Box 418 RD 4
Beaver Brook Rd.
New Windsor, NY 12553

Kenny, James & Mulroone, Mary
54 Lakeside Drive
New Windsor, NY 12553

Dragos, Robert C. & Amy T.
381A Lakeside Dr.
New Windsor, NY 12553

Tucci, William J.
Box 381 RD 4
Lakeside Dr.
New Windsor, NY 12553

Loiacono, Anne & John
Lakeside Dr., RD 4
New Windsor, NY 12553

Retcho, Terrance & Jeannette
Lakeside Dr. RD 4
New Windsor, NY 12553

Cassi, Dominick S. Sr. & Camile
23 Vascello Rd.
New Windsor, NY 12553

Hyde, John & Mary
72 Lakeside Dr.
New Windsor, NY 12553

Lawrence, Vincent J.
15700 E. Monmouth Place
Aurora, Colorado 80015

Hanley, Edward & Eleni & Joseph
70 Lakeside Dr.
New Windsor, NY 12553

Schiavonne, Elaine
Box 386, RD 4
Vascello Rd.
New Windsor, NY 12553

Gawaricki, Gary & Theresa & Marin,
Raymond J. & Geraldine
58 Lakeside Dr.
New Windsor, NY 12553

Smith, Everett W. & Mary X
RD 4 Vascello RD
New Windsor, NY 12553

Gazzola, Audrey X
30 Vascello Rd.
New Windsor, NY 12553

Woerdeman, Debra & Marc X
RD 4, Box 407
Lakeside Dr.
New Windsor, NY 12553

Coleman, Vincent M. X
413 Lakeside Dr.
New Windsor, NY 12553

Conely, Christopher J. & Ellen Lauretta X
6 Hillcrest Dr.
Salisbury Mills, NY 12577

Protection & Rehabilitation District
265 Main St.
Goshen, NY 10924 Duplicate

Schelhammer, Erwin O. & Erna X
167 Lake Rd.
Salisbury Mills, NY 12577

Larke, Thomas A. & Patricia A. X
171 Lake St.
Salisbury Mills, NY 12577

Dale, Barbara X
1075 S. Eliseo Dr. #7
Greenbrae, CA 94904

O'Brien, Mary X
111 Briny Ave.
Apt. 2614
Pompano Beach, Fl. 33062

Donker, Christine & Richard Jaskiewicz
RD #4, Box 453 X
Beaver Brook Rd.
New Windsor, NY 12553

Mroz, Stanley & Irene X
Lakeside Dr., RD 4
Box 412
New Windsor, NY 12553

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Ramona Agresti

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#94-13.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 29, 1994, I compared the 37 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
29th day of June, 1994.

Deborah Allen
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR <i>Gregory & Ramona Agresti</i>	2. PROJECT NAME <i>Lot line change</i>
3. PROJECT LOCATION: Municipality <i>Town of New Windsor</i> County <i>Orange</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>59 Lakeside Dr New Windsor, NY 12553</i>	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>modify lot line boundary between two existing residential lots to facilitate construction of single family residence.</i>	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly <i>Pre-existing non conforming lot</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals <i>Planning Board approval of lot line revision.</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: _____ Date: <i>June 28, 1994</i>	
Signature: <i>Ramona K Agresti Gregory Agresti</i>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)	
C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">No existing lot</div>	
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">no. Existing lot in developed residential area</div>	
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">No. None on projected site</div>	
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">No. See C2.</div>	
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">no. See C2.</div>	
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: <div style="font-size: 1.2em; margin-top: 10px;">no. See C2.</div>	
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly. <div style="font-size: 1.2em; margin-top: 10px;">None</div>	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☐ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Date

AGRESTI, GREGORY & RAMONA LOT LINE CHNAGE (93-23)
LAKESIDE DRIVE

Mr. Michael Murphy of Zimmerman Engineering appeared before the board for this proposal.

MR. PETRO: Application involves proposed lot line change for two parcels on Beaver Dam lake.

MR. MURPHY: We're here tonight presenting this proposed lot line change for Mr. and Mrs. Agresti. Right now there's currently one house sitting on the parcel which crosses over the lot line, there was on old lot line that ran down the length of the property approximately right in the middle that is drawn on the map. What we're hoping to do here is to relocate these lot lines so that we can create a usable lot in the back where we can build a house that would be in conformance with the zoning and also take the original house where there was an extension built on which crossed over that lot line and put all that house on to the one parcel.

MR. VAN LEEUWEN: What are you trying to do, create a flag lot here?

MR. MURPHY: Yes.

MR. VAN LEEUWEN: Let's lay the cards on the table.

MR. MURPHY: That is what it is.

MR. PETRO: That driveway is 200 and something feet.

MR. MURPHY: Yes.

MR. VAN LEEUWEN: I don't particularly like flag lots. This lot is 452 feet deep?

MR. MURPHY: Yes.

MR. SCHIEFER: We went out and looked at this one time.

MR. DUBALDI: No, that was a different thing.

MR. SCHIEFER: Same thing out in the same area.

MR. MURPHY: There is a number of lots along Lakeside Drive that are 50 feet wide as these lots were.

MR. VAN LEEUWEN: All the lots in Beaver Dam were 50 feet wide, that is how they sold them some people bought two, some people bought three, some bought one.

MR. PETRO: This is two lots.

MR. MURPHY: And at one point in time they had two separate houses on the property, about 20 years ago or so, the bungalow in the rear was taken down. There's still remnants of a foundation there.

MR. VAN LEEUWEN: I think we better go out and take a look at this, Mike.

MR. PETRO: Yes, one of Mark's comments is interesting. How are going to get water and sewer back to the lot?

MR. MURPHY: Okay, there's an existing sewer line running along Beaver Dam Lake to the rear of the property, property slopes downhill in the direction so we can get sewer service. Water service we're proposing a well as all the rest of the lots in the area have wells.

MR. PETRO: Sight distance up on the road where you have the driveway of course the Highway Department would have to look at it. Did you go out and inspect it physically?

MR. MURPHY: I have been out there but I didn't take any measurements for sight distance, no.

MR. PETRO: You're on a little bit of a curve there on that road.

MR. MURPHY: Yes, we are.

MR. EDSALL: I think more importantly the application I believe is being submitted as a lot line change. My comment one is asking that they submit the information

that we ask for so that they can review it to demonstrate that it is now currently two legal lots because if it was two lots and it was converted to a single lot it loses its status. It doesn't mean anything if it was two lots 50 years ago. It is what it is now that counts. If it is one lot now and it was two lots before, then it's no longer a lot line change, it's a subdivision. So I think they have to demonstrate to Andy's satisfaction that it is two lots now otherwise it's not a lot line change.

MR. PETRO: Is that hard to do?

MR. EDSALL: Something that they have to work out.

MR. AGRESTI: We have a deed showing two separate lots.

MR. MURPHY: On the tax map it does appear as only one lot but we do have a deed here.

MR. PETRO: You get one tax bill?

MR. AGRESTI: Apparently what I am told happens is when the same owner owns 2 non-conforming lots, they combine them automatically as one.

MR. VAN LEEUWEN: No, they do not.

MR. BABCOCK: If anything, if there's 2 deeds, I think what happened was is that the lots were consolidated for tax purposes and that is what can happen.

MR. VAN LEEUWEN: If it was consolidated that means it's one single lot.

MR. BABCOCK: Only for tax purposes, no new deed's filed to do that, they do it for consolidation of taxes.

MR. VAN LEEUWEN: What I think they should do bring the deeds in and show you so you can see the deeds.

MR. KRIEGER: Yes, I've heard various things. Deed, deeds, whatever they are, I ought to see them and I can't render an opinion until I do.

July 21, 1993

60

MR. MURPHY: I have a copy of the deed heer, it's my only copy but I can get another copy and submit this to you tonight.

MR. KRIEGER: Does one deed contain all of this?

MR. MURPHY: Yes.

MR. PETRO: Why don't we get a copy of this to Mike Fay.

MR. BABCOCK: Fred Fay.

MR. PETRO: Let him check on the site distance, if it is no good, there's nowhere else it can go.

MR. PETRO: We'll put this on a site visit.

MR. VAN LEEUWEN: Also we should have topo on here.

MR. BABCOCK: It slopes from the road back to Beaver Dam Lake all the way. You see Beaver Dam Lake in the back it goes right to the lake.

MR. PETRO: Set it up for a site visit, he can put the additional information on the plan, he can get the deeds to Andy so he can review them and we'll put you on the agenda when you get everything together in the meantime we'll take a look at it.

MR. MURPHY: Thank you for your time.

8/25/93

16

DISCUSSION:

AGRESTI LOT LINE CHANGE (93-23) LAKESIDE DRIVE

Mr. Greg Agresti appeared before the board for this proposal.

MR. PETRO: There was a site visit done on this application and I believe some of the members went on a Monday night and I went myself with Mike Babcock two days ago and we did inspect the site. Just briefly can you tell us again for the minutes what you'd like to do there?

MR. AGRESTI: I have a lot line change so I can build a house in the back.

MR. PETRO: I know you went on a site visit and you had a couple negative comments to make and I came up with the same one. One was the intense slope off Beaver Dam or Lakeside Drive is it?

MR. BABCOCK: Yes.

MR. VAN LEEUWEN: I think that when originally put the house over the line is when the mistake was made. To put a driveway in that particular position okay and have the slope come up, the Town Highway Superintendent is going to want it, is going to make that driveway very steep, I don't think by approving this lot line we're going to improve the property.

MR. PETRO: I think I agree with you with the driveway, I don't see of course I'm not an engineer but I don't see any way to get the proper slope even when you are 20 foot off Lakeside Drive as proposed you want to come out flat and come down. Once you go off the end of the driveway, I would suggest this, we're not engineers, why don't we refer this to Mr. Fayo, let him take a look at it and if he does have an idea that is if we say that we even agree about the lot, I don't want to drag this out, if we don't want another lot. It is a flag lot. New Windsor Planning Board does not usually like to see flag lots although you have a very deep lot and certainly have enough area.

MR. VAN LEEUWEN: First of all, we're approving a lot with 18 and a half foot frontage, I don't even know if that is legal.

MR. EDSALL: This would require a variance at least that variance if they want to proceed because notwithstanding the fact that they are both very narrow lots to start off with, you are decreasing the road frontage and I would believe that that would necessitate the variance.

MR. VAN LEEUWEN: I think it comes under the big heading of substantially poor planning.

MR. SCHIEFER: In my opinion when that house was built on two lots, even though it is still two lots that becomes one lot to me. That is one lot and this is not I don't look at it as a lot line change, I look at it as a subdivision.

MR. PETRO: That is a good point.

MR. VAN LEEUWEN: We have enough problems out there as it is, houses are crowded, lots are small and I think that by doing this, and personally I'll not vote for it, okay, I'm saying personally because I don't think it's the right thing to do with the land. I think it's only going to add more problems to the whole area.

MR. AGRESTI: I don't understand how it's going to change the land.

MR. SCHIEFER: Another driveway.

MR. VAN LEEUWEN: Another driveway, another house, we have enough problems in Beaver Dam as it is.

MR. AGRESTI: That is how they all are every other lot was a flag lot and mine is also.

MR. PETRO: How about the septic?

MR. BABCOCK: Sewer line there.

MR. VAN LEEUWEN: We checked that out.

MR. PETRO: I see the easement.

MR. VAN LEEUWEN: It has nothing to do with you, it has to do with the lay of the land. If I owned that piece of land, I would never pull something like this, I would not do it.

MR. PETRO: Mark Mr. Dubaldi would like to know how many easements would that require, variances I'm sorry.

MR. EDSALL: That is what Mike and I are looking into.

MR. BABCOCK: Basically, the only one I see is road frontage variance and I didn't see that until tonight myself.

MR. EDSALL: For the non-conforming lots which are under each I guess it's 4826 which that section of the Town Code recognizes that certain lots are extremely small and sets quite substantially low record or requirements, it requires a minimum of 50 foot of frontage, this would be approximately a third of what this even 50 foot requirement of 4826 notes so it is quite a substantial variance.

MR. BABCOCK: The other thing is the lot area in a non-conforming lot is 5,000 square feet and he's proposing 23,000 so the lot is sizable.

MR. PETRO: Originally it was two very long narrow lots is what we had. It wasn't a flag lot in the beginning.

MR. AGRESTI: Every other house seems to be a flag lot on that road, if you look at all the houses or whatever you call them, long and narrow, just everyone has a driveway between two lots that goes all the way down to the back house.

MR. VAN LEEUWEN: Most of those houses were built 35, 40 years ago before zoning took effect. We can't do that anymore but you're not the only one that has come to us with a similar situation and we have not approved it.

MR. PETRO: I think you have two major problems. One is the configuration of the lot and your road frontage but I think more than that, even if we said yeah, the lot looks great, it's fine, there is access to that lot, I don't see 12 1/2 percent grade there is going to be impossible. You're not an engineer, but you can see you're going to have more than 12 percent grade. I guess the other alternative is park the cars up there and walk but you couldn't get a fire truck down there in any way, shape or form.

MR. AGRESTI: Isn't every driveway like that?

MR. PETRO: They might have been before they ever came before this board before the Planning Board was in power. If they did that in 1950, we have no control over that. You'd have to admit if you didn't have a driveway and there was a fire there could be a problem if there was ice on the road and you'd get somebody down there and you had 35 percent grade, it could be a problem.

MR. VAN LEEUWEN: As long as I have been on the board these things have been cropping up periodically, they've never been approved. We're just adding to a situation that is already there which is making a situation worse than it is now. It's bad enough now let alone add to it.

MR. PETRO: Mark, do you have a final comment?

MR. EDSALL: Obviously, if the board entertains this continuing, they are going to need a variance and you could refer it to the Zoning Board but I would think that if you really have a consensus even if they got the variance you wouldn't be satisfied with it. You may want to tell the applicant now if your biggest concern now is the access, well, then I would think that they'd have to have a topographical survey performed and demonstrate that they could construct a driveway that does not exceed the Town's guidelines for driveway slopes. If they can't, it's obvious that they'll never be able to obtain approval. Right now the plan doesn't show slopes.

MR. DUBALDI: I don't see how you can give him a variance.

MR. VAN LEEUWEN: I don't think he will get the variance. He has to show hardship.

MR. DUBALDI: What hardship?

MR. VAN LEEUWEN: You're creating a hardship.

MR. PETRO: My point is before it gets to the Zoning Board they are never going to get a driveway installed on that property with the proper New Windsor slopes, New Windsor required slopes and I think even to send him to Mr. Fayo as I suggested earlier, I would be wasting the applicant's time.

MR. SCHIEFER: And money.

MR. PETRO: And money. I think you have a negative feeling from here and if we do send you to the Zoning Board you'd be spending more money if you go the Zoning Board and you would not have a positive recommendation from the New Windsor Planning Board which means even if you did acquire the variances that you would need they might not when you come back here, if it did require them, don't forget you have to prove hardship to get the variances and you cannot create, your hardship, you really don't have a hardship, other than the one you're creating saying you want this lot. You're not saying maybe I don't know what hardship there is.

MR. AGRESTI: That it was two lots at one time does not count and that I just didn't build in the back in time and there was an existing house already there.

MR. BABCOCK: If you had the two lots and the first house did not encroach on the second lot, you would be entitled to a building permit on that second lot.

MR. AGRESTI: If I take that addition down.

MR. BABCOCK: If you were to take the addition down whatever it is, the little extension there, then if it

is two lots.

MR. AGRESTI: That was always on there, used to be a porch.

MR. BABCOCK: If there were two separate lots and there was no building on the lot two per se, the one he's talking about right now under the non-conforming regulations he would be entitled to a building permit.

MR. PETRO: Not in the configuration, he'd have to keep it on the one lot.

MR. BABCOCK: We'd have to check the files and go back in the files to see if the addition on lot one if I am calling lot one where the house is located wasn't considered as one lot when that house was built, I don't know that that is not the case. But basically if that addition was not on lot 2 and that was a vacant lot, it's a 5,000 square foot requirement, 50 foot of street frontage, 51 feet of street frontage, he's entitled to a house.

MR. PETRO: You're suggesting but saying if that house were not there in other words, if you removed part of the house what about side yard?

MR. BABCOCK: Side yard is 12 feet in that zone and it's a 51 foot wide lot so in effect maintain, he would put an end ranch which they do and the non-conforming lots were made for these particular lots.

MR. EDSALL: Part of the problem as well that the house on the north lot appears to not have the required frontage even for the non-conforming lots so one would ask was it built in this configuration with the application indicating that they are using the two lots as a single lot and now they want to break it back up again.

MR. PETRO: That is a good point.

MR. EDSALL: They may have taken advantage of having both lots such that they can build.

MR. PETRO: The lot that the house is on is only 41 feet wide so even at that time you needed 50 feet so whoever owned it at that time, what they did is say well, we have both lots, we'll combine them now, we'll have 142 feet, you see what I am saying? Whoever built that house.

MR. AGRESTI: They didn't combine the two lots.

MR. PETRO: Not legally. It might have been to get a building permit, they said in order to get the correct frontage on the road, we'll combine the two lots because you didn't have enough to build on the one lot now they built the house, now once this house is built you're an applicant coming back again saying well, it's really two lots and we want to use the other lot now but you have already used the right part of that lot because you're using ten feet of it to create the first lot.

MR. BABCOCK: One point the applicant has said that that house is built in 1948 so if that is the case, there wouldn't have been a building permit. They just built it prior to zoning and all that could be researched.

MR. PETRO: I would suggest to the applicant if you want to go that route, let Mike do a little research with you, if you want to remove part of the house off the second lot then like you say, you can just get a building permit.

MR. SCHIEFER: That still doesn't give him a flag lot now he has two more lots to build a house on. I have no problem with that.

MR. PETRO: It's the original configuration of the two lots like Mike says you have to build an end ranch.

MR. AGRESTI: That would do more for the area than subdividing the two lots and building a nice house in the back.

MR. VAN LEEUWEN: It's the law that we have to contend where to put a house.

MR. AGRESTI: Originally you were saying I'm not going to do anything for the area.

MR. VAN LEEUWEN: It's not going to help the area in my eyes, okay, it's not going to help the area by putting a house back there.

MR. AGRESTI: It's going to look worse by having a long narrow house, lot with a house sideways.

MR. VAN LEEUWEN: That is the law. The law allows you to do that, that part of the law you can take advantage of and do.

MR. PETRO: He'd still need a driveway back to the house.

MR. BABCOCK: Which would have to be approved by the highway superintendent.

MR. AGRESTI: My main thing has to be the driveway.

MR. PETRO: Yes, don't start ripping down the side of your house. Go talk to Mr. Fayo and show him this. I suggest he look at the lot and come up with some idea and see if it is possible to meet required New Windsor grades to get a driveway. You can see we're not making that up. It is pretty steep coming off the road, your next door neighbor's driveway is pretty gruesome there.

MR. AGRESTI: He actually dug it out.

MR. SCHIEFER: This is one case if it is a lot line change, fire inspector ought to see it too. How is he going to get back there.

MR. VAN LEEUWEN: I would want a public hearing on the thing too.

MR. PETRO: We do have municipal fire approval on 7/20/93 on that particular proposed driveway.

MR. EDSALL: Obviously, the plan doesn't include any grade information so Bob may not be aware of the

slopes.

MR. VAN LEEUWEN: Anything out there I want to see topos.

MR. BABCOCK: Tonight we're here for discussion. We haven't had the map updated and spent anymore of the applicant's money.

MR. PETRO: It's the determination of the Planning Board at this time that we would not like to see a flag lot put here. Also the major concern would be the grade of the driveway, if you can address the grade of the driveway and come in with something other than the flag lot which naturally goes back to two original lots, we can look at this at this time, I don't think any of us are trying to be difficult. It's going to be hard to do this to stay with the letter of the law as you just heard and I like to come up with good news, I know it's not the news you want to hear.

MR. BABCOCK: So the applicant's first step actually to talk to the highway superintendent in reference to the driveway and if he has any information then he should come back or what are you asking.

MR. PETRO: I don't think he should come back with this exact map. It's the determination of the board I know Mr. Van Leeuwen and Mr. Schiefer have not been happy with the flag lots there in the first place and this configuration you're still going to be left with one lot with 41 feet on the road when you are done. It's going to be non-conforming and quite a few zoning variances.

MR. VAN LEEUWEN: Let me say something I'm not against flag lots totally in this case where it's narrow and steep slope but if it was normal conditions, let's say it was flat or slightly rising land, I don't have that many problems as long as it meets some of the codes in New Windsor, doesn't meet any code in New Windsor and I doubt that the Zoning Board will approve it.

MR. SCHIEFER: Can the fire inspector be asked to look at this? I'm sure he wasn't aware of the topo.

MR. PETRO: I think he just looked at the width.

MR. KRIEGER: Can be asked to do it, yes, he can be asked to do it but until you have a different determination, you are bound by the determination you have. You can ask him to look at it again. He may or may not choose to look at it. If he chooses not to, then the board is bound by his determination.

MR. EDSALL: I'm getting the impression that the biggest hurdle here, forgetting about being a flag lot if it was two narrow strips is the grade I think until they have Mr. Zimmerman perform an actual survey of the lot and give you some grade information so that we can tell what slopes are involved and what they could and couldn't accomplish, I don't think you really have enough information.

MR. EDSALL: For yourself, you want to know whether or not a driveway is feasible.

MR. EDSALL: If they have the survey performed and they came back in and we're able to show that they can build a driveway and maybe at the maximum allowable slope you'd have something to look at. At this point, you don't have enough information.

MR. PETRO: Why don't we take that route.

MR. VAN LEEUWEN: When those slopes are checked out they are not going to be adequate. I'd hate to see the man waste a thousand dollars and have somebody come in and do topo and everything else when I know ahead of time it isn't going to work.

MR. EDSALL: I didn't see the lot, what kind of elevation difference do you have from where the house site is to the road?

MR. VAN LEEUWEN: 30 feet, 40 feet.

MR. PETRO: The proposed house is a lot feet.

MR. VAN LEEUWEN: At least.

MR. PETRO: Might be 60, 70 feet. It's pretty drastic. I looked at it. If I took a 20 foot tape and came back off Lakeside Drive level and then from that point it would be the slope would have been 40 percent at least to get down to the natural ground, I'm talking about again some reasonable before you went passed the original house.

MR. EDSALL: Just looking at the plan, it seems that if plateaus were dreated at the base near the house and near Lakeside Drive with a 15 percent slope which is normally what the board sets as an extreme maximum for driveway slope, the applicant could have up to 35 or 40 feet of elevation difference and still meet the Town's requirements. So again, that is a substantial difference but they do have 250, 260 feet to accomplish that slope.

MR. VAN LEEUWEN: Mark, the trouble is to put elevation plateau up there you are only making the slope steeper.

MR. EDSALL: That is what I am doing. What I am saying is I'm taking the two areas and giving them 15 percent for in between we really didn't have enough information now.

MR. VAN LEEUWEN: He's not going to make it with 15 percent.

MR. EDSALL: I don't know that but what I am saying is I wouldn't want to make a decision on if he wants to pursue the application we have to review the application on the merits of what he submits and I can't by visually looking at a lot.

MR. PETRO: We have we've had enough time on this. You have a feeling from the Planning Board that we really don't like it. If you want to pursue it at your time and expense and obviously that would be your first step is to get the engineer to come up with a topo and driveway detail that we can look at at that time, if you want to come back again at your time and expense, we would definitely be open to discussion again but you have understand you're going to need Zoning Board

variances, prove the hardship and you're getting a negative outlook on this from the Planning Board. But if you want to pursue it, that would be the way to go, okay?

MR. AGRESTI: Thank you very much.

